ARBITRATION

BETWEEN

Capital and Labor.

RYAN.

ARBITRATION

BETWEEN

CAPITAL AND LABOR,

A HISTORY AND AN ARGUMENT;

BY

DANIEL J. RYAN.

"If there be those who would array Labor against Capital, I am not of them, nor with them. If there be those who regard the interests of Labor and of Capital as naturally and properly antagonistic, I do not agree with them."—HORACE GREELEY.

COLUMBUS, O.:
A. H. SMYTHE.
1885.

Press of Nitschke Bros.,
Columbus, O.

TO

JOSEPH D. WEEKS,

OF PITTSBURGH.

PREFACE.

THIS volume was written during the spare hours of a legislative session. It is not presented to the public as a work of literary excellence or of brilliant originality. The principles advocated herein are neither new nor untried.

It is my desire to offer a plain statement, in a historical and argumentative way, of the value and necessity of the peace principle of arbitration in settling disputes between capital and labor.

Events are daily transpiring which are crowding to the front the importance of amicably adjusting the controversies of workingmen and their employers. Their dissensions are operating injustice and damage to both sides and to society at large. There is danger in their occurrence

and continuance, and the conservative friends of social order see in these conflicts a subject worthy of the gravest consideration. What shall be done, is a great and pressing problem. It is a matter which affects more living persons than any other question with which our race has to deal. It is one of the broadest humanity. It is not simply a question that deals with dollars, wages, strikes, and riots; it deals with human wants, sufferings, affections, and grief. Centuries of strife have failed to solve it. A few recent years of peaceful methods, such as described in these pages, have accomplished more than all the past.

In the preparation of this volume, I have experienced no little difficulty from the paucity of material in American literature, for information upon the subject which it treats. With the exception of the valuable *Report on Arbitration and Conciliation in England*, by Mr. Joseph D. Weeks, there has been nothing complete published in this country. The principle and practice of arbitration in trade disputes has received much attention from the social economists, statesmen, workingmen, and capitalists of England. Hence,

the reader will find that almost all of the evidence as to its operations and success come from English sources.

I am under deep obligations to Mr. Weeks on account of a free recourse to his report, and for personal views obtained from him, and I am also indebted to Ex-Senator Wallace, of Clearfield, Pa., for favors connected herewith.

I have found in my investigations the following works of vast benefit in properly studying the question of voluntary arbitration, and I recommend them to those who desire to examine this subject: *The State in Relation to Labor*, by W. Stanley Jevons; *The Question of Labor and Capital*, by John B. Jervis; *On Work and Wages*, by Sir Thomas Brassy; *On Labor*, by W. T. Thornton; *Trades Unions*, by William Trant; *The History and Development of Guilds, and the Origin of Trades Unions*, by L. Brentano; *Theory of Political Economy*, by W. Stanley Jevons; *Economic Position of the British Laborer*, by Henry Fawcett; *The Social Law of Labor*, by William B. Weeden; *Reports of the Condition of the Industrial Classes in Foreign Countries*, London, 1870; *Conflicts of Labor and Capital*, by George Howell;

Reports of the Bureau of Labor Statistics, for the States of Ohio, Pennsylvania, and Massachusetts, and *Report of Committee on Trades Societies*, in the Proceedings of the National Association for the Promotion of Social Science, London, 1860.

With these words, this work is submitted to the consideration of an appreciative public.

DANIEL J. RYAN.

Portsmouth, O., April, 1885.

CONTENTS.

CHAPTER I.

THE FAILURE AND FALLACY OF STRIKES.

THE protracted and bitter struggles between workmen and employers known as *strikes*, form a subject worthy of special consideration in treating upon the matter of arbitration. Their failure and inefficiency in producing profitable results present an impressive lesson to labor, as well as a powerful argument for an appeal to the methods of peace and law, in settling industrial difficulties. A writer, whose official and personal opportunities have given him the right to speak with authority on this subject, has this to say concerning it:

"How do strikes originate? The history of one in its general features is the history of all. A number of men working for a firm or company, through their daily conversation become imbued with the belief that they should have an advance of wages; a meeting is called for some evening,

the matter is discussed, and finally a committee is instructed to respectfully demand of the employers an advance of wages. The demand is refused or ignored, and no attempt at communication with the men is made by the employer. The men become morose and sullen, another meeting is held, and a strike is resolved upon. The men strike, the works are closed for a month or more, one of the parties weakens, a request for a conference ensues, the difficulty is adjusted, and the men return to work. It matters not which side has been defeated; ill feeling and a desire for another test of endurance has obtained a foothold, and the war continues until either the employes are all dead or scattered, or the employers withdraw from the business. If a demand comes from the employers for a reduction of wages, the method of proceeding is practically the same, with the same results."*

A strike never proved the right or wrong of any labor question. In isolated instances it may have resulted in some particular good, but these cases are rare exceptions in the history of strikes. In no case has a strike left the workingman in the same prosperous condition in which it found him. It leaves him out of money

*Second Annual Report of the Bureau of Labor Statistics of Ohio. —*H. J. Walls, 1878.*

and out of work. It always turns Labor into a mendicant, and frequently into a criminal; it arouses in Capital feelings of cruel resentment, and transforms it into a heartless oppressor. The motives, as well as the origin of these strikes, are often simple and useless. One of the most extensive industrial territories in the United States is the Hocking Valley Coal region of Ohio. In no other collection of wageworkers in this country have strikes been more frequent or more damaging. Yet one who has examined by personal association, together with experience coming only from a practical miner, the conditions of employment there, says that "the majority of these labor troubles originate in almost nothing."* There must be, however, exceptions to this statement. The terrible struggle which has been going on in that region for the past year certainly cannot be said to have originated "in almost nothing." The protest of the miners against a reduction was based on much that was just and fair. Nevertheless, the differences on this point between the operators and miners could have been settled in its first stages by honest and frank arbitration. The failure of calm, candid discussion between operator and employe frequently leads to dissensions and ill-feelings,

*Annual Report of Inspector of Mines of Ohio.—*Andrew Roy, 1881.*

which usually terminate in a strike. Further, on this same matter, he says, "both parties acknowledge that the price of mining should be reduced in the spring and raised in the fall. Yet the miners scarcely ever accede to a reduction without a strike, and the operators never allow an advance unless compelled to do so by a threatened strike." The bitter experiences of employers and employes seem to lessen in but a small degree this annual recurrence to the methods of barbarism to settle their differences. The conflict goes on, bringing disaster and ruin to the operators, and idleness and starvation to the miners.

Another innocent victim of these struggles is the workingman of the cities. The price of coal during strikes becomes high, or at least they are sometimes the pretext for high prices, and the article of home use as necessary as the bread on the table is purchasable only by paying the price of a luxury. It is no blow to the wealthy; their fires always burn, even though their coal comes from distant districts. So while the miner in his struggle entails suffering and want upon his own family, his influence for increasing suffering extends to the crowded tenements of the city and to the home of the mechanic far distant. The unjust demands of the operator have the same result.

The moral influence of strikes is depressive. Idleness is most conducive to evil; and it is the worst enemy of industrial progress. A victim of involuntary idleness, as the workingman usually is in a strike, is a pitiable spectacle. Willing and able to labor, but controlled perhaps by some external agency which he must obey. No good can come to the laboring classes from such a source; it brings bitterness and defeat even when their controversy is successful.

Every strike is a pecuniary disaster to capital and labor. The misled wagemen are losers even when the imaginary victory is theirs. The annals of strikes are a series of foolish losing struggles for labor. A strike for a wage advance of ten per cent., if kept up for one month, and if the parties are successful, is no pecuniary advancement. It will require that striking labor ten months of uninterrupted work to earn back the money lost by the strike. Who is ahead in the contest? If the strike lasted thirty days, and the advance gained was only five per cent., the laborer would have to work one year and eight months to earn back what he lost during the strike! Is there any money to labor in striking?

A review of the history of the protests of labor against the aggressions of capital will be interesting in demonstrating the failure of strikes.

The path of English industry is strewn with tombstones marking ruinous and ineffective struggles of labor. The earliest wide spread and long continued strike of English workmen was that of the Lancashire cotton spinners, which occurred in 1810. In that year the spinners in the mills of Manchester, Stockport, Macclesfield, Staleysbridge, Ashton, Hyde, and as far north as Preston, left their work simultaneously. Thirty thousand persons were thrown out of employment. The strike, which was for an advance in wages, continued four months. It was four months of misery, lawlessness, and destitution to the participants. The hard-earned savings of years were consumed in endeavoring to win the contest. The advance was not obtained — the desired point was an increase of fifty per cent.; failure was the result. The loss was enormous, but out of the pocket of the laborer. The spinners of Manchester struck in 1829; they lost a million and a quarter of dollars before it was ended. Gain? Nothing. In 1830 the spinners at Ashton and Staleysbridge lost the same amount in wages by a strike. In 1833 the builders of Manchester inaugurated a famous strike. They had nothing to show for their struggle but a loss of $360,000 in wages. The spinners of Preston lost $360,000 in 1836. In 1854 seventeen thou-

sand spinners in the same place struck for thirty-six weeks, and they lost $2,100,000 in wages. The iron workers of England lost in 1854 $215,000 in the same way. The dear price of strikes is not always paid by labor; capital suffers as well. The Belfast linen operators in 1875 lost $1,000,000 by one season's strike. This treats of but a few instances. In the pottery strikes of Staffordshire of 1834 and 1836, the loss to both workmen and manufacturers was $943,050 in the latter year, and $250,000 to the workmen alone in the former.

The bread winners of America never made a dollar by striking. When every such transaction is put upon the trial sheet of investigation, and subjected to cool calculation, the figures will be on the debit side every time. The great railroad strike of 1877 was founded on the just demands of employes who, as a matter of humanity, were entitled to increased wages. It was simply a labor rebellion against the aggregated and oppressive railroad capital of the country. But what did it amount to? Nothing. Lives lost, property burned, public peace disturbed, and every day was a day lost in bread and butter to the strikers. The loss to labor was millions, to capital, tens of millions. It settled no dispute; gave to no man work.

In 1880 the Bureau of Labor Statistics of Massachusetts made a thorough report of the result of 159 strikes in this country. The report classifies the strikes and their causes as follows: to secure better wages, 118; to secure shorter days, 24; to enforce union rules, 9; resisting employers' rules, 5; against introduction of machinery, 3. The report shows the result to have been as follows: unsuccessful, 109; successful, 18; compromised, 16; partly successful, 6; result unknown, 9; contest then pending, 1. In the various Fall River strikes in that State, the enormous sum of $1,400,000 has been lost in wages by the voluntary idleness of the operatives. And it is stated that "in more than sixty-eight per cent. of them, loss in wages, varying with the extent and duration of the strike, has been submitted to without any material benefit accruing to offset it."*

The strike of the Amalgamated Association of Iron and Steel Workers of Cincinnati and vicinity in 1881 was a five months' struggle which cost the strikers $500,000 in wages and injured the trade of Cincinnati to the extent of a million and a half of dollars. In the end both parties got together, talked it all over, made concessions to each other, and an agreement was

* Report of the Bureau of Labor Statistics.—*1880, pages 65–68.*

reached. This was practically arbitration. Why not do that at first?

The strike of the Brotherhood of Telegraphers throughout the United States and Canada commenced July 19, 1883. It lasted just thirty days. The demands of the strikers were for shorter hours of labor and an increase of pay. They claimed that eight hours for day work and seven hours for night work should be the limit; and demanded an increase of fifteen per cent. on salaries. They accomplished absolutely nothing, and on the 18th of August the Brotherhood pronounced the strike a failure, and advised all operators who could secure situations to go to work.

They paid an immense sum in lost wages for their contest, which was just and deserved success. William Orton, President of the Western Union Telegraph Company, testified before a Congressional committee that telegraph operators could not perform daily more than six hours of continuous labor without endangering their health. Their wages had been reduced twenty-five per cent. in three years. They had grounds for complaint, but striking brought no relief.

It is stated by Andrew Roy, formerly Ohio's Mine Inspector, that the strikes among the Hocking Valley coal miners have been almost annual

for the past twelve years. And he says that "it would be a very moderate calculation to place the losses to the miners alone, the result of striking, as equal to three hundred thousand dollars a year." Thus in twelve years the loss to the miners has been three million six hundred thousand dollars! Labor able to be performed, but absolutely annihilated. The mine operators' loss is estimated very low at five millions of dollars. Add to these pecuniary losses, the lawlessness and bloodshed that has resulted from these heated conflicts, and what answer can prove striking a benefit to labor?

Pages and pages of narratives of these injurious and unsuccessful contests between workmen and capitalists could be recited. But enough has been said to show that whatever good is accomplished by these struggles is paid for at a cost and sacrifice which never brings adequate returns.

In this general censure of the uselessness of strikes, I am not forgetful of the fact that oftimes they have been the ultimate and only remedies of labor in its effort to obtain justice. But I hold it to be true, that there is a better and cheaper method of protecting the workingman, and giving him justice in his disputes with capital. Happily influences are at work which

are daily directing, at the same time protecting, labor in its demands. The trade unions of to-day, contrary to the opinions of many, are the most potent factor in preventing rash and useless strikes in the domain of capital and labor. They have their missions, and it has uniformly been more for good than for evil. And when they do inaugurate a strike, this can be said for them — that it is only done after the maturest deliberation, and after the cost, as far as the governing power can see, is fully estimated. William Trant, in his valuable little treatise recently written on *Trade Unions, their Origin and Objects, Influence and Efficacy*, presents a very effective defense against the charges made against them; and from this source I quote at length, as showing their relations to strikes. While he is speaking of the English societies, it may be observed that the same is applicable, but in a more appropriate degree, to the societies of American workmen.

"In order, however, that trade unions may lay claim to fitness for carrying out their objects, they must show something more than that they are able to conduct a strike to a successful issue, to palliate the evils of an unsuccessful strike, and to succeed in occasionally forming a board of arbitration. They must show that in their very nature they have the desire and power to prevent

strikes. It is gratifying to be able to state that in this respect, also, the trade unions are eminently successful. Indeed, economy, if nothing else, would dictate such a policy. The executories of trade unions have been taught by experience, that even when an object is worth striving for, a strike is often the worst, and always the most expensive, way of obtaining it. Strikes, as a rule, are a *dernier resort*, and are more frequently discountenanced by the general secretary than approved of by him. Indeed, it is the boast of most trade union secretaries that they have prevented more strikes than they have originated. This is all the more creditable, because some branch or other is always urging a strike. 'At least twenty times in as many months,' wrote Mr. Allan, 'we have recommended that a strike should not take place.' 'About one-third,' answered Mr. Applegarth, when questioned on the subject by the Royal Commissioners, 'of the applications made to us to strike, during the last few years, have been refused;' and Mr. MacDonald, Secretary of the House Painters' Alliance, said, 'Our parent society never originated a strike, but has stopped many.' The desire of the trade unionists to prevent strikes is also shown by the following resolution, which was unanimously agreed upon at the Trade Unions' Con-

gress in 1874, viz.: 'That in the opinion of this Congress, that in all trades where disputes occur, and where it is possible to prevent strikes by starting co-operative establishments, all trades societies and trades councils be recommended to render such assistance as lies in their power, and thus, as far as possible, prevent strikes and lock-outs in the future.' This, at any rate, shows that the unions are as willing to devote their funds to the prevention of strikes as to their origination; and although some of the speakers to that resolution showed a preference for co-operative principles inconsistent with a thorough belief in those of trade unionism, yet the congress wisely limited its resolution to those circumstances when the co-operative form of trading is certain to prevent a strike, and not to the promulgation of co-operative principles generally."

And he verified his argument by the accounts of the various English trade unions, that they spend, comparatively, a very small per cent. of their funds in sustaining strikes. In 1882, the Amalgamated Engineers, with an income of £124,000 and a cash balance of £168,000, expended in strikes, including the support they gave to other trades, £890 only, less than one per cent. The Iron Founders spent out of an income of £42,000, £214; the Amalgamated Carpenters

who had been engaged in strikes, expended £2,000 out of £50,000, only four per cent.; the Tailors spent £565 out of a fund of £18,000; the Stone Masons, with a trade union of eleven thousand members, spent nothing in strikes. During six years, it is estimated that seven English trade unions spent in the settlement of disputes, £162,000 out of a capital of almost £2,000,000. In 1882, these specific societies, with an aggregate income of £330,000 and a cash balance of £360,000, expended altogether in matters of dispute about £5,000. These figures from Frederic Harrison's address before the Trade Union Congress at Nottingham, in October, 1883, certainly are creditable to the cause of trade unionism. "When it is remembered that ninety-nine per cent. of these societies' expenditures were for benevolent and provident purposes, and one per cent. only for strikes, it is absurd to say that the chief object of a trade union is to foster trade disputes."

As far as industrial organizations can prevent these conflicts, they have lent all their powers and machinery to that end. Yet in spite of their unquestioned attempts, there has been, and will continue to be, these terrible and costly struggles which have crippled labor and its cause, and at the same time almost destroyed the mechanism

of trade. The condition of things, therefore, compels labor and capital in their own interests, and society for its peace, to go farther and inquire whether there is "a balm in Gilead" for these troubles. Strife and stubbornness and bulldozing have failed. The inhuman system of lock-outs — capital's starving-out process — does not admit of an argument in defense. The situation is pointedly put by George Howell, who was at one time Secretary of the English Trade Union Congress. Said he, "the whole question lies in a nutshell. Is brute force better than reason? If it be, then a costermonger may be a greater personage than a philosopher, and Tom Sayers might have been considered superior to John Stuart Mill." It is obvious, and it is needless to argue the question, that public interests, as well as the individual interests of employer and employe, would be best subserved if the same result in industrial disputes could be attained without the barbarisms of strikes and lock-outs. If differences could be corrected amicably without the cessation of labor and the depreciation of capital, it would certainly be money in the pocket of the worker as well as the capitalist. Take, for instance, the strike of the colliers of South Wales in 1875. It included 120,000 workmen, and lasted seventeen weeks. The loss in wages has

been variously calculated from three to five millions of dollars; and, after all that loss, it was finally settled by the miners and operators coming together, and by reasonable methods arbitrating their differences in a manner that provided a basis which prevented many a subsequent contest.

When men of labor and capital meet together as men of business should meet, and discuss their differences, in a friendly spirit, the chances are altogether in favor of an amicable settlement, profitable in the end, to all concerned and participating. Their success runs in parallel lines; if they diverge or cross, the symmetry which the laws of trade and nature design is marred. As the bow unto the arrow is, useless one without the other, so is labor and capital. Labor is capital; capital is labor; and in this stage of society we cannot have one without both.

There is a remedy for the conflict. It is the remedy that civilized nations have substituted for war; the remedy that has killed the doctrine that "might is right." It is the submission to the influence of reason. The voluntary arbitration of labor's troubles and capital's claims, trusting to an enlightened public opinion to sustain awards, is the only rational method consistent with the welfare of society. This conclusion is

justified on the following summarized grounds:

1. Strikes have failed to accomplish what the workingman demands, although they have given him partial relief.

2. Their enormous cost in wages thrown away has proven that no good that comes from them is worth the price paid.

3. Their demoralizing effect, generally culminating in lawlessness and at times in bloodshed, antagonizes public opinion to the just claims of labor.

4. Their arbitrary management, which creates a general idleness in a trade when the irritation is local, is clearly unjust.

5. They lead to an unjust distribution of wages by making the uniform rates of wages established apply to the indolent and unskilful as well as to the industrious and efficient workman.

Just arbitration has none of these evils. Is it not better to make equity a living principle in all disputes of the wage workers, and seek to bring the force of peaceful justice into play, instead of the more violent and damaging contests, which, if won, are but defeats? How shall that be done? How has it been done? We shall see.

CHAPTER II.

VOLUNTARY ARBITRATION—ITS METHODS AND OPERATIONS.

ARBITRATION is the adjudication by private persons appointed to decide a matter or matters in controversy, on a reference made to them for that purpose, either by agreement of the disputants, or by the order or suggestion of a court of law. When the subject to be decided is one of work or wages, or both, arising between employer and employe, it is industrial arbitration. The proceeding generally is called a submission to arbitration; the persons appointed to decide are termed a Board of Arbitrators or Referees, and their opinion or adjudication of the subject-matter before them is called an award. Boards consist usually of an even number of members, and when they fail to agree they call upon a third person who is known as the umpire. His decision expresses the award. One of the ancillaries to arbitration is the effort

to promote harmony and an agreement between the disputants before their contest is subjected to the formal inquiry and decision of arbitration; this is known as conciliation. With these prefatory and explanatory words, an examination will be made into the methods and worth of industrial arbitration.

I do not claim that courts of arbitration, even when based upon the voluntary action of labor and capital, are a complete panacea for all the ills of trade and industry. As long as men have passions there will be "wars and rumors of war," but I do claim that they will, in a wonderful degree, dispense with those disastrous agencies now used in the settlement of trade disputes.

There is a distinction to be made in the beginning between statutory arbitration and voluntary arbitration. The former applies to arbitration, the awards of which have the force of judgments of courts; in fact, such a board of arbitration is a court for the time being, having full power to subpœna witnesses and enforce its judgments as a court of record. Voluntary arbitration is an entirely different system. As the term indicates, there is no authority of law unless it be in the method of erecting the boards. Its awards have not the force of judgments, and it rests upon the honor of the disputants, rather

than upon the writ of the sheriff, to carry them into effect. All the experience and history on this question is uniformly to the effect, that the only successful arbitration between labor and capital in the past has been purely voluntary. For years there have been upon the statute books of many of the States laws providing for arbitration of disputes, but they have never been applied in labor troubles. Boards with a justice of peace air about them, and clothed with powers of compulsion, fines, and commitment, have never been considered by contesting employer and employe as a safe or judicious forum to submit their case. In England since the fifth year of the reign of George IV. (1824) there has been in force a statute providing for arbitration in the industrial disputes. Under it tribunals with compulsory powers and processes were created, but it still remains a dead letter, and has been especially objectionable both to employers and employed.

The opinion of those who have been close observers of this matter are of interest as bearing on this subject. In this country no man has given the question of arbitration a broader and deeper investigation than Mr. Joseph D. Weeks, of Pittsburg. In 1878 he was appointed a special Commissioner of the State of Pennsylvania to

proceed to England and examine in person the methods and operations of the system of voluntary arbitration, now a settled question in that country. His comprehensive and able report to Governor Hartranft in December, 1878, contains the result of his full examination. He says: "The voluntary feature of these boards is one to which I desire to call particular attention. Both Mr. Mundella and Mr. Kettle, to whom the cause of arbitration and conciliation in England owes much that it is, and who represent somewhat diverse views on the subject, agree that these boards should be voluntary and not compulsory. Though there are acts of Parliament, which provide compulsory legal powers by which either side can compel the other to arbitrate on any dispute, these powers have never, in a single instance, so far as I could learn, been used; but the large number of differences that have been settled by arbitration in Great Britain in the last eighteen years have all been voluntary in their submission and in the enforcement of the award." Prof. W. Stanley Jevons, the eminent English economist, speaking of arbitration, says: "All available evidence tends to show that successful boards of arbitration must be purely voluntary bodies. * * * In all probability success will be best obtained in the settlement of trade

disputes by keeping lawyers and laws as much at a distance as possible. There must be spontaneous, or, at least, voluntary approximation of the parties concerned. It is a question, not of litigation, but of shaking hands in a friendly manner, and sitting down to a table to talk the matter over. The great evil of the present day is the entire dissension of the laborer and the capitalist; if we once get the hostile bodies to meet by delegates around the same table, in a purely voluntary and equal footing, the first great evil of dissension is in a fair way of being overcome."* And Judge Rupert Kettle, a strong advocate of arbitration, contends "that, according to the spirit of our laws and the freedom of our people, any procedure, to be popular, must be accepted voluntarily by both contending parties."

Arbitration which is purely voluntary is best advanced when the method of creating the boards is prescribed by some rule or precedent. Hence, legislation providing for an uniform manner in the erection and operation of boards of arbitration is always advantageous. To this extent, and this only, can laws figure with good results.

When the proceeding to create boards is prescribed by statute, it gives to them a semi-official character which attracts public attention to their

* The State in Relation to Labor. — *W. Stanley Jevons, p. 163.*

sessions and awards. In this way a critical and acute public opinion, or sentiment, becomes one of the strongest aids to fair and honest awards, and it is one of the most effective preventives against their repudiation. Often after the parties consent to arbitrate, they disagree on the simple matter of selecting the board. When the law points a clear, fair, and uniform system of creating boards for voluntary arbitration, it takes away this trivial cause of disagreement. And a statute of this nature can go a long ways towards providing for many of these preliminary steps without in any way impairing the mutuality of this system of arbitration. It can fix the minimum number of each party in the board; it can prescribe by whom the board may be officially designated as such, and it need not at all interfere with the selection of those who are to act upon it; it can fix the jurisdiction of these boards as to the territory and trade in which they may arbitrate; it may limit and define the service of the members of the board, provide for the time and manner of electing the umpire, and may give the boards powers as to testimony, as well as prescribe their manner of making an award.

Voluntary arbitration then may be regarded as the only practicable method of settlement, if the parties arbitrate at all. Any other system

can be seen at a glance to be inoperative. While decrees of statutory boards could be enforced against the employers, they would as a rule be ineffectual against the workmen. Unfortunately the latter are oftentimes proof against the execution of judgments. But when it is left purely to the honesty and fair play of both sides, the chances of success are improved wonderfully. Lack of the world's goods does not necessarily mean lack of honor. The great mass of workmen who would agree to arbitrate could safely be relied upon to abide the awards. This objection against voluntary tribunals of arbitration cannot be sustained, for the instances are few where either party has put his honor behind him and refused to abide the award. The power of public opinion is also great in sustaining a just award.

Boards in every instance consist of an equal number of workmen and capitalists or employers. Out of this body there may be appointed a committee of inquiry or a board of conciliation. This latter board takes cognizance of individual disputes, and is wholly informal. It deals with lesser troubles; it gives no decision on any given matter, because no subject is ever referred to them for settlement. They are the good Samaritans of the Board of Arbitration. As their name indicates, they are conciliators. If they fail by

friendly urging and inquiry to bring harmony, the matter in discussion goes before the arbitrators to be acted on formally. When the dispute finally reaches the arbitrators, the claims of the workingmen are stated by their Secretary; and the objections, or vice versa, by the employers through their Secretary. The matter is then one of judgment, reason, and justice. The parties are presumed to meet as friends and as equals. As well might there be no meeting at all if the assembling is in any other spirit. And this is one signal characteristic of success in arbitration, that under it the parties meet as arbitrators before they become enemies. Hence the necessity of having the board erected before any strike or dispute occurs. In time of harmony prepare for the "winter of discontent." In prosperity is the time to prepare for the antagonism of labor and capital. When hard times come, and the competition of labor within itself is great, it is almost impossible for the industrial classes to procure their just concessions from capital. They become enemies, and enemies can never arbitrate; friends always can.

The man who works is equal to him for whom he works. The difference, if any, between them is in the qualities of their individual manhood, and not in any positions they occupy. The

failure of the first board of arbitration in South Staffordshire, England, was due to the fact that the employers never realized this. They met, were seated comfortably at a table with pens, ink, and paper, and installed their chairman; the workmen were shown to a bench at the side of the room, and seated as if they were in court awaiting to be tried, rather than fellow citizens assembled to agree upon a contract which was as important to them as to their employers. Under our American ideas such an affair would not settle anything.

After the erection of a board, a matter of vital importance is the selection of an umpire. This, like the board itself, should be settled upon before the contest ripens into the heat of a litigation. Who he should be, his qualities and capacities, form the gravest questions in voluntary arbitration. Must he have a familiar and practical knowledge of the subject-matter in dispute? Experience in this proves nothing. Some of the best umpires in this country and in England have been devoid of any practical knowledge of the trade in which the dispute occurred. Thomas Hughes, M. P., Thomas Brassey, M. P., Henry Crompton, and Rupert Kettle have been among the most trusted and successful umpires in English arbitration, but none of them have been

practically connected with manufacturing or mining trades in which their judgment has always been received. They have had the confidence of the disputing parties, and have given their references the strictest and most impartial investigation. Just as successful arbitrators were men who have been extensive manufacturers, as A. J. Mundella and others. The workingmen in England call those who decide upon knowledge not acquired practically, "stranger referees," and they have been strangely prejudiced against them, but are beginning to view the matter differently, so that it makes but little difference at this time. The cause of antipathy to "stranger referees" is principally one of class, a feeling that there is a lack of sympathy for the laborer. This objection in this country would hardly arise, as both parties would demand good judgment and honesty, and would have no fears as to prejudice.

The umpire is distinctively a judge. If a man will put himself through a course of study on the subject of his decision, there is no reason why he should not give as fair and as competent a judgment as if he were engaged all his life in the business. Courts of law are the daily examples of men dealing in practical things with a theoretical knowledge. This is notably the case in patent litigation. Questions of the most

practical and scientific machinery are decided with justice and competency. The principal quality desired in an umpire is integrity and levelheadedness, with an intelligent conception of what he is to pass upon.

It is not desirable here to lay down any principle or basis on which awards can be made. That is a duty peculiarly attached to each individual case of arbitration. The Board having met, are supposed to be within honest reach of every fact and all information that will give them light in an honest investigation. If the dispute be one of wages, assuredly the basis becomes the ability of the manufacturer to pay, the condition of the market, and the demands of the workmen. To agree upon a basis is the very object of a board of arbitration. Mr. Weeks, in his report referred to, concerning this, says: "As a matter of information it may be said that the practical operation of the boards, while all the facts relative to prices, competition, demand and supply, both of labor and products, are considered, wages are generally based on the selling price of the article produced. Mr. Kettle, in a noted arbitration in the coal trade, found a certain date at which the wages paid for work about the colliery was satisfactory to both sides. This became the ideal, and served to fix in a general way a ratio

of wages to prices that would be a satisfactory one to both parties. Due notice was taken of any changes that had occurred that should serve to increase or diminish this ratio, such as reduction in the hours of labor, increased expense from the mine inspection laws, etc.; and the arbitrator in his award endeavored to approximate this ratio as near as could be done without injustice or injury." This, of course, necessitates an examination of the books and business of the employer. For this reason it has been strenuously objected to. But the objection as compared with the result at issue is certainly captious. No investigation that would reveal transactions necessary to business success is demanded. The question of simply what was the selling price at a time agreed upon, is all the board would require to be answered. Any confidential imparting of information would certainly be regarded by the board, representing, as it is supposed, the honorable element of labor and capital.

After all, it will be asked, may not the Board of Arbitration and umpire make a mistake, perhaps against the wageworker and perhaps against the employer? Certainly. But is there as much likelihood of error in the decision by arbitration as there is in the violent and blind impulses of a strike or a lock-out? As long as candid and cool

investigation is superior to rash and unreasonable action, thus long will arbitration be less fruitful of mistakes than strikes. Under the control of voluntary arbitration, facts and figures of business take the place of malevolence and mere assertion, and where a board would err once, a strike would err three times. Besides, no board or umpire, such as would be selected by intelligent workmen and employers, could make a grossly serious mistake. And such a departure as might even sometimes be made — and to err is a parcel of our humanity — would only equal a short time in amount of wages. Even presuming an error, is not that far superior to a strike? Boards of Arbitration cannot operate so as never to commit an error, but they commit fewer errors than contests of force.

The force of public opinion in sustaining the justice of an award of a board, is an important aid to the system of voluntary arbitration. In this labor would have the advantage, for invariably in strikes, where justice is on the side of the worker, the opinion of an enlightened and reading American public has been with him. This feeling, that the arbitrators themselves would have to face the bar of public sentiment, and hear the reflex judgment on their award, would be the most potent factor in prompting them to weigh

candidly, justly, and carefully all that comes before them. This would, of course, be cumulative to their own independence, integrity, and ability.

In order to be of the most advantage, these tribunals should be permanent, having a continued existence, and ready at any time to take jurisdiction of a dispute. In this way the best material may be obtained for the board, and its judgments will be calmer. To select the arbitrator from the participants of a struggle, manifestly is an impediment to a fair judicial hearing. The most successful boards of arbitration are those that have been permanent and held stated meetings at regular intervals. This periodical assembling of employers and employed to discuss small differences, perhaps, or questions of social advantage to each, is a very valuable feature. It gives both parties a knowledge of their demands, necessities, and expenditures. The facing of capital and labor as companions and friends is of equal benefit and interest to each. Many of the disputes in the industrial world can be attributed to lack of information in the party originating the struggle, while a social contact and a mutual interchange of conditions and abilities will make labor just in its demands and temper capital in its claims. And thus by the modera-

tion and forbearance peace can dwell between them, and more be obtained by both sides than if disputes were summarily created.

The submission, discussion, and decision of industrial questions to voluntary boards of arbitration is purely a matter of business, and is clearly the best plan devised by the wit of man to avoid unnecessary destruction and loss to labor. No other system recommends itself in which "a fair price for a fair day's work" is arrived at on as just a basis and by as reasonable a method. The conflicts of suspicion and distrust between manufacturer and employes render the first periods of boards of arbitration trying, and, at times, discouraging. Oppositions growing out of "matters of sentiment" are generally foolish and intangible, and furnish no proper cause for the exercise of the peace making power. At the same time they are apt to be the source of disputes. The best remedy for this unfortunate condition of things is the friendly contact and association of representative workmen and employers, that necessarily follows from the operations of voluntary tribunals.

The arbitration which is clothed with the power of the law in its methods of deciding and in enforcing its awards, has some ardent and intelligent advocates. Some friends of arbitra-

tion have claimed that a legal power to enforce the award is fully necessary to a completeness in voluntary arbitration; others, equally sincere and desirous of its success, have maintained that to make arbitration anything but voluntary would be to make it inoperative. There are now in existence three laws in England relating to arbitration, and all providing for a legal enforcement of the award. The first of these, before referred to, was passed in 1824, and the others in 1867 and 1872. These latter acts were originated by Lord St. Leonards and Mr. A. J. Mundella, M. P., respectively. They embody the compulsory processes in a court of arbitration, as well as some minor provisions as to method of appointment, time of meeting, etc. Execution upon goods and chattels, as well as imprisonment, are the compulsory manners of enforcing awards. These acts have not been taken advantage of, and they are not regarded with much favor by manufacturers or workmen. The bright instances of the success of arbitration have uniformly been those purely voluntary. The rigors of the law have not in any case been called into play to enforce an award. That "aggregate honor of individuals, which our French neighbors call *esprit du corps*," is the power which sustains the decrees of voluntary boards.

There is no question but that where all the proceedings have been voluntary, that some awards which can be equally enforced upon capitalists and workmen, would be improved by conferring legal process. Instances have occurred where awards have been repudiated and rejected, but as compared with those acted upon and sustained, their number is few. In some cases where the feeling has been strong, upon the publication of an adverse award there has been sulking and disappointment among workmen, but the whole line of experience confirms the statement that most awards, satisfactory or otherwise, have been acted on. The management of boards should be to eliminate from their decisions all feeling of conquest or defeat. The business aspect of the arbitration, and the desire to promote harmony and good-will, should be steadfastly adhered to.

The history of labor, especially of England and France, is the brightest testimony to the success of voluntary arbitration. Its unquestioned benefits and harmonizing influence seem to have given labor renewed confidence in its own intellectual strength, while capital has multiplied its successes with justice and generosity.

One incident in the development of industrial arbitration is worth recording, for it sheds a

volume of light upon its advantages: Eighteen years ago the North of England iron district was in a state of anarchy, resulting from the social struggles of labor against capital. A terrible conflict about wages paralyzed the trade. The capital invested in the enormous mines and iron lay idle for months. "Crowds of hunger smitten workmen begged for bread in the streets, or savagely denounced the capitalists who were trying to starve them into submission." There had been strikes and lock-outs in this region before that of 1866, but that year saw the most horrible of all. After four months of idleness, ruin, and disaster for all concerned, the workmen were compelled to work at their employers' terms. An ill-natured, malevolent era of peace followed. The revival of trade in 1869 brought on all the old symptoms of past strife, and, filled with fear and disgust, workman and owner waited for the storm to burst. But both were saved by the establishment of a board of arbitrators, which has existed successfully ever since. By this simple but effective method the iron trade of the North of England rid itself forever of the curses of strikes and lock-outs. And there are now no fewer than 100,000 wageworkers in that region practically secured against industrial trouble by the adoption of the principle of voluntary arbitration.

Principles, which, when practically applied, work out such results, are worthy of the best consideration. They appeal to our better humanity. The spirit of the times puts force in the background in the settlement of conflicts, whether individual or international. It only justifies the appeal to force and arms when rights cannot otherwise be protected or maintained. The progress that has driven duelling from society makes nations hesitate before warring over fanciful wrongs. The same progress condemns labor taking the law into its own hands for the redress of its wrongs. This suggests a question: Why may not the same spirit of peace that is overspreading men and nations enter the arena of labor's conflicts? That light of intellectual advancement, to which no nook or corner of our race is impervious, has beamed upon the man of labor, and brightened him into as shining a figure as the man of capital. This is truer of the American laborer than of any other. Here, in the civilization of a new world and a new era, he is a factor of the government in which he lives; and, as he is this, it is the grossest injustice to compel him to fight for his rights in an uneven contest against capital.

Labor will never obtain its fullest meed of success in its conflicts, save through the legitimate

channel of intelligent contest. The stubborn fight which is determined by brute endurance or financial backing will be valueless and costly. When the workingman meets his employer with facts, and figures, and reason, in his demand for higher wages, he will win his point, if he is right. Society and public opinion will see that he does; if he is not right, he ought not to win.

Tribunals to try the disputes between labor and capital are the results of that same progressive evolution which has characterized every branch of science, art, commerce, and industry. They are the outgrowth of the elevation of labor.

A long time ago, in 1846, the ultimate resort to peaceful settlement was prophesied by John Bright in his speech on the Factory Bill. Speaking, then, he said: "The working classes would every day become more and more powerful and intelligent, not by violent combinations or collisions with their employers, but by a rational union amongst themselves, by reasoning with their employers, and by the co-operation of all classes."

CHAPTER III.

ARBITRATION IN FRANCE AND BELGIUM—THE "CONSEILS DES PRUD'HOMMES"—THE ARBITRATION ACT OF AUSTRIA.

IT was late in the history of humanity before labor was crowned with freedom. None of the ancient nations recognized labor as anything but slavery in one form or another. The condition was but little changed for centuries. England was subsequent to France in securing liberty and standing to the laborer. The Magna Charta of English liberties had no application to the workers by hand and muscle. It was a gift to the barons and their equals. It applied to about half of the people of England at that time; that is, those who were freemen. The laborer was a villein, and a villein was a slave; he was not considered a subject. He had no organization or method of protection. For fifteen centuries the only protector the laboring man had against his owners and masters was the Church.

She stood, the enemy of the oppressor of the poor, and she stood alone in her protectorate. Afterwards, when the working classes obtained representation in the legislature, they found in the Parliament and lawyers friends and protectors. With these three intercessors the laborer came into sunlight. The French laborer developed rapidly; and it is to France that we must look for the origin of industrial arbitration. In the history of her labor she furnishes the prototypes of the peace and conflict of the trades of to-day, for we find the immense strikes of modern times foreshadowed by the Jacquerie riots of the fourteenth century.

Unquestionably the first systematized method of settling trade disputes in industrial history is to be found in the "*Conseils des Prud'hommes.*"* This institution is well defined in the law of its origin (March 18, 1806) as follows: "The *Conseils des Prud'hommes* is established in order to put an end, by means of reconciliation, to the small disputes which arise daily, either between employers and workmen, or between foremen and workmen and apprentices." These courts were established by Napoleon at the petition of the workingmen of Lyons. A similar institution had existed in that city prior to the passage

*Councils of Wise Men.

of this general law. In Lyons, then, may be fixed the birth of arbitration. And it is fitting that it should be so. This city, a perfect citadel of labor, is the chief silk emporium of France, and for the manufacture of the best qualities of silks is unrivalled. It has thirty thousand looms, and including the suburbs, over one hundred thousand. The number of workers employed there in the silk industry at the present time is not less than one hundred thousand. A strike is a rare occurrence, yet disputes are frequent; but through the agency of these *Conseils des Prud'hommes* they are settled cheaply, and without much loss of time or money to either operators or operatives. The example of Lyons was soon followed by the principal cities of France. In 1807, *Conseils des Prud'hommes* were established at Rouen and at Nismes; in 1808, at Avignon, Carcasonne, Mulhouse, St. Quentin, Sedan, Thiers, and Troyes; in 1809 and 1810, at Rheims, Lille, Marseilles, and many smaller towns. In 1813 there were twenty-seven of these courts in France, and in 1840 there were sixty-four. Paris established its first council December 26, 1844. They have been increasing yearly, and their careers have been signalized by the most satisfactory results. The statistics reveal the fact, that 90 per cent. of the cases brought before

them have been amicably settled. In 1847 there were sixty-nine of these councils in France, and in that year they had 19,271 industrial disputes submitted to them; of this number, 17,951 were adjusted by conciliation. In 1850, of 28,000 cases, 26,800 were settled by conciliation. The number of *Conseils des Prud'hommes* in 1874 was 112; at the present time there are about 150.

The history of the *Conseils des Prud'hommes** shows that the struggle of the workingman in France has been for equality with his employers. This is illustrated by the decree of June 11, 1809: "The *Conseils des Prud'hommes* will be composed of masters and workmen; *but in no case will the number of the latter be equal to that of the former.*" In this condition the workmen were at the mercy of their employers. It was not imbued with the spirit of fair play; and the French mechanic is a great deal like the American — he wants an equal chance in all his conflicts. He struggled against this; and in 1848, when almost everything was reorganized in France, equal representation of labor and capital was made the basis of the

*For an interesting account of the workings and history of the *Conseils des Prud'hommes*, the reader is referred to "An Account of the Legislation Affecting Labor and the Condition of the Working Classes in France, by M. Louis Blanc," in the Report of the Committee on Trade Societies of Great Britain —*London, 1860.*

council. Therefore, in the law of the 9th of June, 1848, it was enacted:

"That in the '*Conseils des Prud'hommes*' the two conflicting interests should be represented by an equal number of employers and employed;

"That this number should be neither below six nor above twenty-six, and should in every case be an even number;

"That the '*Prud'hommes*' belonging to the class of employers should be elected by the employed from a list of candidates presented by the employers;

"That the '*Prud'hommes*' belonging to the class of employed should be elected by the employers from a list of candidates presented by the employed;

"That in the event of the votes in the council being equally divided, the President should have a casting vote;

"That the council should be alternately presided over by an employer elected by the employed, and by an employed elected by the employers."

The method of electing the members and the appointment of the presidents of the council were changed by the law of June, 1853, and by that it was left to the employers to elect their own representatives, and to the employed to elect

theirs; and the appointment of the President and Vice-President was retained by the government.

At present each council consists of a President and Vice-President, not necessarily either workmen or employers, and twelve members, six of whom are elected by employers and six by workmen. This board or council has cognizance of all controversies arising between master-manufacturers and their workmen, and also between the latter and their apprentices. Under the law the term of half of each class of the board expires every year. It is the first duty of this court, in case of a disagreement, to sit as a court of conciliation; and, if it fails to bring the parties to an understanding, it has the power to arbitrate the dispute. On all matters where two hundred francs or under is involved, it has final jurisdiction, but in higher amounts there is a right of appeal to the Chamber of Commerce; in fact, every question, except that of future wages, is a proper one for the *Conseils des Prud'-hommes* to consider. They may even consider this question, if the disputing parties so agree.

It should be borne in mind that the operation of these councils is not strictly voluntary. The submission is voluntary, but the processes and enforcement of the awards are sanctioned by the penalty and powers of the law. Yet their con-

ciliatory feature, which so closely resembles the English system, is purely voluntary.

The objectionable feature, especially to the American workman, is the intermeddling of the government in selecting the presiding officer or umpire. In this there is a radical departure in the English system of voluntary arbitration, where the board itself selects the umpire. There seems to have been a political object in the French government framing the law thus. M. Louis Blanc, in his letter "On Legislation Affecting Labor in France," says of this: "I must give Napoleon credit for using this weapon in such a manner as is calculated to wheedle into submission to his sway the least enlightened portion of the working classes; for the watchword of the Presidents in the *Conseils des Prud'hommes* seems to be, since the Empire was re-established: 'Let us turn the scale in favor of the operatives;' and I have it from workmen thoroughly acquainted with all that refers to their class, that whereas under the reign of Louis Philippe the masters mostly carried their causes, it is just the reverse which happens now, the imperial policy being to indemnify the workingman by some material advantages for the loss of those lofty ennobling enjoyments, which man derives from the sense of his self-dependence secured, and of his dignity

unimpaired." This was the view of one of the most eminent agitators of the labor question in 1860. The answer of subsequent years, in the marked success of the councils, has largely stripped the criticism of its force.

The worth of arbitration as practiced in France, is testified to in the Reports of Lord Lyons in 1870, "Respecting the Condition of the Industrial Classes in Foreign Countries," the statement on French labor closes as follows:

"To give an idea of the success of the *Conseils des Prud'hommes* in terminating disputes by reconciliation, it may be mentioned that in all industrial centres in which such courts exist, they effect a reconciliation in ninety-five out of 100 cases brought before them. This satisfactory result is easily explained. The election of the *Prud'hommes* implies the confidence of the electors in his uprightness and capacity. He naturally exercises with a kindly zeal the functions which have been awarded to him by his equals as a mark of esteem; his voice appeals with effect to feelings of justice and moderation, calms the irritation of disputants, and diminishes exaggerated pretensions. Above all, the effect of his good advice is not prejudiced by the professional pleading of counsel. At the *Bureau de Judgment*, as well as at the *Bureau de Conciliation*,

the parties must appear in person without the intervention of a lawyer."*

The workingmen of France, through their organized unions, have given to their courts of arbitration solid and substantial encouragement and approval. This alone is the best certificate of their value. And yet how can it be otherwise upon the exhibit of what they have accomplished? Lord Brougham, in the House of Lords in 1859, in a debate on strikes, said: "It was impossible to read the annual report of the *Conseils des Prud'hommes* without wishing to see some analagous provisions in our own law." His wish was afterwards fulfilled.

In Belgium the French system is adopted, and under the same name. While the success of the councils in Belgium is not the same as in France, they have been of incalculable benefit. The manner of operating is practically the same in both countries, and the composition and jurisdiction of the councils are similar. There is a difference, however, in this: the Belgian *Conseils des Prud'hommes* have a criminal jurisdiction,

* Each council has a *Bureau de Judgment* and a *Bureau de Conciliation.* The *Bureau de Judgment* sits once a week, or once a fortnight; two-thirds of the council form a court. The *Bureau de Conciliation*, formed of one *Prud'homme* employer and one *Prud'homme* workman, may be said to sit permanently, always ready to hear complaints and to transact business every day. —*Reports Respecting the Condition of the Industrial Classes in Foreign Countries, London, 1870.*

ıich has largely impeded their progress and efulness. They are clothed with a police court ocess, which, in all countries where arbitration s been tried, has proven detrimental to peace tween labor and capital. There is too much the machinery of the law, and not enough left the voluntary spirit of the workmen and ıployers.

In Austria, by the law of May 14, 1859, bitration courts were established in every im-ortant town and district. Their function is to ttle all disputes respecting wages, continuance work, fulfilment of contracts, and claims on nefit clubs and relief funds. They are com-ɔsed of workmen and employers, each elected by eir own class. The workmen are paid by the mmune for every day's sitting. The jurisdic-ɔn of the arbitration courts extends to the usual bjects of dispute in the trades. Their awards ıve the force and effect of judgments of courts. ɔgal and compulsory process can be issued for e purposes of investigation.

The uniform history of arbitration in France, ıstria, and Belgium has been that of elevation labor. While the lot of the workingman in ose countries in no way approaches the inde-ndence and position of his American brother, is far ahead of what it might be; yes, what it

has been, when he depended on the wager of striking for a remedy for his wrongs. In Austria these courts are the real and only methods of the workingman's defense. The law makes strikes and lock-outs illegal. Combinations by manufacturers and all other employers, to control trade or lower wages, are made penal offenses. The same is true of combinations of workmen, to organize strikes or raise wages. Hence the necessity and advantage of their arbitration courts. But, as was before remarked, there is too much governmental control to suit the American workman. Such courts would not operate in this country, or even in England, but their history is a step in the progressive march of labor to the forum of judgment and reason. They are, doubtless, the best institutions for the countries in which they exist. And they prove that the verdict of an open and fair trial is preferable to a conquest wrung from unwilling hands, ofttimes at fearful cost.

CHAPTER IV.

ANTHONY J. MUNDELLA, THE FOUNDER OF ENGLISH ARBITRATION.

THE life of Anthony John Mundella, distinguished by Henry Crompton as "the inventor of systematic industrial conciliation," is an appropriate and necessary introduction to the history of voluntary arbitration in England.

His career in the English Parliament, as the representative of Sheffield, which commenced in 1868, stamped him as a radical champion of the rights of labor.

He is of half Italian and half English ancestry, and was born at Leicester in 1825. A scion of that wide nobility — the common people, his whole life is an index of his origin. He commenced life as a "printer's devil," but through its early stages accumulated by indefatigable industry a valuable education. At the age of eleven years he was apprenticed to the hosiery

trade, in which he remained until his eighteenth year. His business capacity and intelligence attracted the attention of his employers, and in his nineteenth year he was engaged as manager of a large cotton trade enterprise. When twenty-three years of age, at Nottingham he became partner in one of the largest hosiery firms in England, Hone, Mundella & Co. In this capacity he was the employer of three thousand workingmen. It was here that he displayed that broad Christianity and wise economy which have made his name a lasting one in the history of British industry.

In 1860 he conceived and put into practical operation the first attempt at voluntary arbitration in England. The hosiery trade at that time was paralyzed and torn with industrial strifes. Employers and workingmen were at "swords' points," and the only mutuality between them was that of distrust and malevolence. The season of eleven weeks was rife with strikes and lock-outs; and it was out of this state of affairs that the Nottingham Board of Arbitration and Conciliation sprung up. After considering the serious condition of trade and industry, Mr. Mundella evolved a remedy. Says he, in his testimony before the Trades Union's Commission in 1867: "I had heard of the *Conseils des Prud'*-

hommes in France; and with one or two others I built up a scheme in my imagination of what I thought might be done to get a good understanding with our men, and regulate wages."

The employers held a meeting, and appointed a conference committee of three from their number to meet with the workingmen.

The result is given in Mr. Mundella's own way: "We three met perhaps a dozen leaders of the trades union, and we consulted with these men; told them that the present plan was a bad one, that it seemed to us that they took every advantage of us when we had a demand, and we took every advantage of them when trade was bad, and it was a system mutually predatory. And there is no doubt that it was so; we pressed down the price as low as we could, and they pressed up the price as high as they could. This often caused a strike in pressing it down, and a strike in getting it up; and these strikes were most ruinous and injurious to all parties, because, when we might have been supplying our customers, our machinery was idle; and we suggested whether we could not try some better scheme. Well, the men were very suspicious at first; indeed, it is impossible to describe to you how suspiciously we looked at each other. Some of the manufacturers also deprecated our pro-

ceedings, and said we were degrading them and humiliating them, and so on. However, we had some ideas of our own, and we went on with them; and we sketched out what we called a Board of Arbitration and Conciliation."

Thus was instituted the first voluntary tribunal of trade disputes in England, and it became known as "The Board of Arbitration and Conciliation in the Glove and Hosiery Trade." It held its first meeting at Nottingham, December 3, 1860, and was a harbinger of many others.

The reign of peace was a reign of success. Ten years later, in the *Contemporary Review*, Mr. Mundella reviews his work as follows: "Since the 27th of September, 1860, there has not been a bill of any kind issued. Strikes are at an end, also. Levies to sustain them are unknown; and one shilling a year from each member suffices to pay all expenses. This — not a farthing of which comes out of the pocket of their masters — is equivalent to a large advance of wages. I have inspected the balance sheet of a trades union of ten thousand three hundred men, and I found the expenditures for thirteen months to amount to less than one hundred pounds."

The success of the Nottingham arbitration attracted the attention of the public; and it was recognized that at least one step had been taken

for the abolition of labor strikes and struggles. Mr. Mundella received invitations from many towns, notably Sheffield, to lecture upon his system of voluntary arbitration. No other city in England had suffered in her trade so much from trade disputes as Sheffield. Her working classes and employers hailed with cheer this application of new principles to industry. They were tired of the many fruitless fights in which they had engaged. And they not only gladly listened to the new gospel of Mundella, but in 1868 they demanded that he stand as one of their candidates for Parliament. This he did, and was elected, running largely "ahead of his ticket."

He entered Parliament representing the workingmen of Sheffield, yet clothed in his own modesty. And right faithfully in his whole political life has he stood by the interests of his constituents. By the thoroughness and practicality of his speeches, he soon became an acknowledged leader. His speech on the Education Bill was the most important in the debate, so says Mr. Gladstone. It ought to have been. Mr. Mundella had investigated by personal examination the school systems of the United States, Germany, Switzerland, and Holland. In his advanced and honored position he never forgot the condition of his fellow toilers whom he had

left behind. He worked indefatigably night and day to repeal the Criminal Law Amendment Act, which bore heavily and unjustly upon workmen. The Factory Nine Hour Bill had no stronger advocate and friend in all Parliament. To Mr. Mundella, more than any other one man, can be credited the repeal of the former and the passage of the latter.

If a comparison should be wanted in American public life for Mr. Mundella, no character would be better suited for that purpose than Thaddeus Stevens. The eminent Sheffield Liberal possesses all the tenacity and stubborn conscientiousness of the Pennsylvania Commoner. The fealty of Mundella to the interests of the common people has made him one of their tribunes. His position as the father of voluntary arbitration has made him a benefactor to the laboring classes. And they knew it, too, for right royally have they stood by him in sustaining his Parliamentary career. The motive which has prompted him to place so much confidence in the workingman when dealing with his employer, seems to control his political life. His speech at Newcastle-on-Tyne, in November, 1884, during the Franchise Bill agitation, was worthy of the primest American. "Enfranchise the people; and after you have enfranchised the people, they

themselves are the best judges in what manner they shall use their power."

Mr. Mundella, in his public career, has given his sympathy to the class from which he sprung; at the same time he strongly discountenances any preaching of the doctrine of antagonism between capital and labor. He is emphatically a peace advocate in labor struggles. By his own life and experience he has demonstrated that violent disputes between employer and workmen can readily be dispensed with when both parties exercise good judgment and fair play.

CHAPTER V.

RISE AND DEVELOPMENT OF ENGLISH INDUSTRIAL ARBITRATION.

TO the American student of industrial arbitration, the history of English labor forms the starting point for all theories, plans, and argument concerning it. While the social and political condition of working classes in England in no way approaches that of the American workingman, there is no other country of Europe, at the present time, where capital and labor are nearer on a level. But it has been a long and bitter struggle to bring about this condition. English capital has been a severe taskmaster. Cruel, powerful, and enslaving methods have been its most common weapons; and it has only been within the past score of years that labor has received even a portion of its dues, and then only has it been by that agitation which has summoned capital to the bar of public opinion to hear the claims and petitions of the wageworkers.

By the power of co-operation, organization, and arbitration, a repetition of the tyranny of past years has been made impossible.

To read of the rise and development of the principle of arbitration in England, is necessary to a just appreciation of the principle itself. To this end it is my purpose to present a succinct statement of its progress. Mr. Weeks' Report has been of much assistance in giving the present relationship of voluntary arbitration and conciliation to labor; it is invaluable in studying this question.

The beginning of the era of peace in the trade disputes of English industry may be fixed in the year 1860. It was in that year that Mr. Mundella first made practical the theory of settling a labor difficulty without a strike or a lock-out. The hosiery and glove trade, with which he had been long connected, is concentrated in Nottingham and immediate vicinity. For years, almost centuries, the struggles of violence were common events between employers and employed. A not unusual weapon of retaliation used by the workingmen was to destroy the machinery of the manufacturer. This violence, growing out of the disputes of labor and capital, made it necessary for Parliament to punish machine breaking with death. In the year 1816 six persons suffered the

death penalty for this offense. From 1710, especially, up to 1860, the condition of the relations of labor and capital was that of contending military forces. These were times of peace; but these were seasons of truce rather than of good feeling. In 1860 there were three strikes in the hosiery trade; and out of the state of affairs resulting from these conflicts Mr. Mundella conceived, and carried into practical operation, his "Board of Arbitration and Conciliation in the Glove and Hosiery Trade," mentioned in the preceding chapter.

The rules adopted by his board thus created, are a model of all that is desired in a peaceful adjustment of disputes. They have been satisfactory from the first, and have scarcely been amended at all since their adoption. I deem them of sufficient historical importance in this matter of arbitration, to be given to the reader entire, as the first successful basis for voluntary arbitration in England.

1. That a board of trade be formed, to be styled "The Board of Arbitration and Conciliation for the Hosiery and Glove Branches."

2. That the object of said board shall be to arbitrate on any questions relating to wages that may be referred to it from time to time by the employers or operatives, and by conciliatory

means to interpose its influence to put an end to any disputes that may arise.

3. The board to consist of eleven manufacturers and eleven operatives. The operatives to be elected by a meeting of the respective branches. The manufacturers to be elected by a public meeting of their own body. The whole of the deputies to serve for one year, and to be eligible for re-election. The new council to be elected in the month of January, in each year.

4. That each delegate attend the board with full powers from his own branch, and that the decision of the board shall be considered binding upon the branch he represents.

5. That a committee of inquiry, consisting of four members of the board, shall inquire into any cases referred to it by the secretaries. Such committee to use its influence in the settlement of disputes. If unable amicably to adjust the business referred to it, it shall be remitted to the board for settlement; but in no case shall the committee make any award. The committee to be appointed annually.

6. That the board shall, at its annual meeting, elect a President, Vice-President, and two Secretaries, who shall continue in office one year, and be eligible for re-election.

7. That the board shall meet for the transaction of business once a quarter; viz., the first Monday in January, April, July, and October; but on a requisition to the President, signed by three members of the board, specifying the nature of the business to be transacted, he shall, within seven days, convene a meeting of its members. The circular calling such meeting shall specify the nature of the business for consideration, provided that such business has first been submitted to the committee of inquiry, and left undecided by them.

8. That all complaints submitted to the board for their investigation be submitted in writing, stating, as clearly as possible, the nature of the grievance complained of; such statement to be sent at least one week prior to the board meeting.

9. That, prior to any advance or reduction in the rate of wages being considered by the board, a month's notice shall be given in writing to the Secretary, that such change is desired.

10. That the President shall preside over the meetings of the board, and, in his absence, the Vice-President; in the absence of both President and Vice-President, a Chairman shall be elected by a majority present. The Chairman to have a vote, and in case of members being equal, the Chairman to have the casting vote.

11. That any expense incurred by this board be borne equally by the operatives and employers.

12. That no alteration or addition be made to these rules, except at a quarterly meeting, or a special meeting convened for the purpose. Notice of any proposed alteration shall be given in writing one month previous to such meetings.

These rules, it will be observed, embraced the principle of conciliation as well as arbitration. The "committee of inquiry" of section 5, were conciliators: their mission was similar to the *Bureau de Conciliation* of the *Conseils des Prud'hommes*. The presiding officer gave the casting vote in case of a tie; but that was changed afterwards so as to leave the casting vote in the hands of an umpire, who was selected from outside the board by the members, when they failed to agree among themselves.

While this Nottingham board was the first successful permanent and systematic board of arbitration in England, it must be said that settlements in trade disputes had been made prior to this; but most of the boards of these instances were simply temporary committees for the special dispute. Yet there were arbitration boards composed of workmen and employers in many trades, especially the Scottish. The Scottish Miners' Association was founded in 1852. The object was

the protection of miners' rights and privileges. Their rules provided that "if at any time the work or workmen therein find it necessary to strike for an advance of wages, or from any other cause, the district committee shall refer the matter to a working arbitration." The rules are silent as to the method of arbitrating. The most sensible and conciliatory union of thirty years ago was that of the Glasgow Tailors. That trade has been remarkably free from strikes. I take my view from their reports up to 1857. Nearer to the Nottingham system of arbitration than any other trade, seems the board of arbitrators of the Glasgow tailors. Their admirable provisions for settling disputes are given in rules 11 and 21 of the union. These are as follows:

"This Society being established upon principles of strict justice, having for its object the protection and furtherance of the interests of both employers and employed, it is desirable that all disputes which may arise between them should be submitted to arbitration, as the most speedy and equitable way of arriving at a conclusion; and it shall be the constant aim of the Society to see that this desire be, as far as practicable, carried out. * * * In the event of any dispute arising, the men shall first reason the matter with the employer; and, if unsuccessful,

they shall immediately thereafter inform the committee of the same, who will use their best endeavors to bring about an amicable adjustment of the case. * * * The arbiters shall consist of an equal number of employers and employed, whose decision shall be final, the disputants first subscribing a minute of submission, binding themselves to abide by the same, or an agreement binding them to enter into a regular submission when required, containing the usual clauses."

The Glasgow potters, up to 1860, were remarkably free from strikes. The last general strike was in 1836, and was a terrible ordeal for manufacturers and workmen, and long recollected by the latter with dread. From reports to the "National Association for the Promotion of Science," which held its Fourth Annual Meeting at Glasgow, in 1860, it is found that one of the main causes of the absence of strikes in the "potteries" is the yearly agreement between workmen and employers as to arbitration. The clause is as follows: "If any dispute arise between the parties as to the prices or wages to be paid by virtue of such agreement, the dispute shall be referred to an arbitration board of six persons, to consist of three manufacturers chosen by the masters, and three working potters elected by the workingmen." The success of this method

can be seen from the report to the Association: "This arbitration clause has been much tried, and has worked most successfully in ninety out of one hundred cases."* In the long series of struggles on labor disputes prior to 1860, we find many instances of efforts at arbitration. I have cited the foregoing as examples. The workmen in a majority of cates favored a submission to arbiters, thus showing a faith in the justice of their claims. To the discredit of the masters, they refused to submit their position to any such investigation.

All this arbitration referred to was voluntary. It was resorted to through the mutual action of the employers and employed. As far as it was tried it was satisfactory. The only instances of successful settlements have always been of a voluntary nature.

It was but natural that the agitation of such a question should attract the attention of legislators and statesmen, and it was not long before a bill was introduced into Parliament providing for the establishment of tribunals to try labor disputes. Mr. Mackinnon, M. P., in 1859 presented his "Bill for the Establishment of Courts of Conciliation for the Adjustment of Differences

* See Report of the Committee on Trades Societies; Proceedings of National Association for the Promotion of Social Science.—*London, 1860.*

between Masters and Operatives." This provided for a system of arbitration, but it was permissive or voluntary as to the erection of such. And, strange as it may appear in the light of subsequent history, the trade combinations of Sheffield strenuously opposed its passage as being objectionable, because its courts were voluntary and not compulsory. When we reflect that afterwards Parliament passed laws providing for legal arbitration, and that under them no arbitration has ever taken place, it only shows the fluctuating view workmen often take of their position.

The Mackinnon Bill never passed. It was objected to in the House of Lords; and thus the first attempt to create a legal board to adjudicate trade disputes in England failed. While the bill was pending, and while the Social Science Congress was in session at Glasgow expressing grave doubts as to practical arbitration, Mr. Mundella was quietly operating his own splendid method.

The Wolverhampton system of arbitration and conciliation, so called on account of its first application at that place, was adopted in the building trades there about three years after the Nottingham system was originated. Judge Rupert Kettle, of Worcestershire, was the advocate and principal supporter of this method of arbitration, and he has for years been a zealous

and able advocate of this peaceful contest of labor and capital.

The building trades of Wolverhampton, like all the rest of English trades up to the introduction of arbitration, had been subject to controversies as to wages and customs, which invariably resulted in strikes and lock-outs. The last strike, which continued seventeen weeks, was in 1863, and it crippled the industries of the town and vicinity very seriously. Capital was timid and feared to invest; labor was sullen and seeking revenge. The strike finally terminated, but signs of dissatisfaction and further trouble were apparent at the beginning of the building season of 1864. The citizens and tradesmen of Wolverhampton, through the Mayor, finally called a meeting of the workmen and employers, to take into consideration the feasibility of settling their disputes otherwise than through the medium of a strike. The result of this meeting, which was held on the 14th of March, 1864, was that the carpenters appointed six delegates to meet with six delegates of the employers, for the purpose of settling the impending difficulties. A week afterwards these twelve delegates met and selected an umpire, who should have the deciding vote in case of a tie on the questions before them. The umpire chosen was Mr. Kettle, who was, to

quote from one who knows him well, "remarkable for very vigorous analysis and skilful unravelling of complicated facts." His judicial temperament and well known integrity inspired the disputing parties with confidence in his adaptability to the position. Briefly stated, the arbitration worked to a charm. The award of the board was cheerfully accepted by masters and men; and the loss of time, money, and contentment incumbent upon every strike was averted to the great joy of all concerned. The Wolverhampton method was worked out and systematized by Judge Kettle without being acquainted with the features of Mr. Mundella's Nottingham plan. It had some points superior to the latter. For instance, one of the distinguishing articles of Judge Kettle's method was to select the umpire outside of the board. He was a permanent standing arbitrator. This was a decided advantage. A judge selected in time of harmony will have the confidence of the disputants much more than if he was selected during a pending discussion. Judge Kettle's board formed a set of rules for each working establishment, and compliance with these rules was the essence of the contract of hiring. A radical weakness of the Wolverhampton method was the absence of the conciliation feature in the board. Upon the slightest dispute concerning

the rules, wages, or other matter, it was necessary for the entire board to assemble and pass upon the matter in dispute formally. It can be readily seen that one of the most effective instruments for peace between employer and employed, is the conciliatory feature of arbitration. The powers of conciliation, however, were afterwards added, and, according to Judge Kettle, have been "found in practice more useful than the arbitration rule."

Both of these systems, the Nottingham and Wolverhampton, advocated by Mr. Mundella and Judge Kettle respectively, have formed the basis for all the voluntary arbitration now in force in England. The spirit of these systems has spread; and now in the most important and wide-spread industries of that country strikes are a relic of a past barbaric era. If they are not entirely abandoned, they are, at least, rarely heard of.

The iron industry of England is its staff of industrial life. For years the mill workers and miners were so oppressed by the ironmasters that a strike in an iron district was almost a civil war. It meant lawlessness, vandalism, bloodshed, and misery. This was especially so in the North of England iron trade, to which I have before referred. For sixteen years the disputes of labor and capital in the rolling mills of England have

been settled by arbitration, and it has been an era remarkably free from strikes. The board of arbitration for the North of England iron business was, as all efforts of this kind usually are, the outgrowth of a strike. It was formed on March 22, 1869. It is a permanent institution, and has the usual equal representation of employers and employed, as well as the conciliation committee taken from the members of the board; in truth, arbitration in its just and full application must necessarily be about alike in all systems and trades. Speaking of this board, Mr. Weeks, in his report, says: "At the close of 1875, it represented thirty-five works and 13,000 subscribed operatives. These works had 1,913 puddling furnaces — more than all Pennsylvania, and half as many as the entire United States. During the year 1875 the standing committee investigated forty disputes. Since its organization there have been eight or nine arbitrations on the general questions of wages, and scores of references in regard to special adjustment of wages at particular works." The awards of the board from 1869 to 1874 in fixing wages have been freely and honorably accepted without a single repudiation; and this has been uniform, both in the decrease and the increase of wages. The justice and necessity of a change of wages must have been

very apparent to the board before an alteration would be decided upon.

A similar board was organized in the South Staffordshire iron business, but it did not prove as effectual for good as that of the North of England. This was owing to a dispute between trade unionists and outsiders. The labor parties represented undertook to deny admission to the board of non-unionists, and as a result it failed. The right principle in arbitration makes no distinction between labor of any kind; if that is not done, and the formation of the arbitration tribunal is to be controlled by trade unions, it ceases to have that feature of independent justice necessary to success. Since the failure of the first attempt on a trade union basis, there was organized in 1875 "The South Staffordshire Iron Trade Conciliation Board," with the objectionable points of the old board left out. It has operated with success. In October, 1878, the market required the usual reduction of wages, which the board upon careful examination decreed. The award, although bearing hard on the workmen, was conscientiously—of course not cheerfully—abided by. And prior to and since that time, there were the usual reductions and increase of wages following the fluctuations of the market. I mention these large reductions of wages because they have

been the motive powers of causing strikes in the past history of English labor. At the present, in the manufacturing regions of England where these boards of arbitration are in vogue, the struggle of labor against capital is made before these tribunals; it is a struggle of reason and sense. And although it is sometimes decided against the workmen, the award is acquiesced in. Advantages are often gained by both parties that could never be realized from a strike or lock-out.

In the English coal regions of Northumberland and Durham, and in the South Wales districts, the peaceful method of settling trade disputes has been applied with much success. Attempts at arbitration have been made in other districts, with not very brilliant results. These attempts were made frequently before the systematic arbitration now adopted came into vogue. In most of these instances efforts at arbitration have been made by the men, and as often refused by the operators. Notably in the West Yorkshire coal strike and lock-out as far back as 1858, when the miners offered to submit to arbitration, and the employers not only declined, but refused an interview to the miners' representatives. And in the strike of the Scottish miners the same thing was done. Prior to 1873 the rejected efforts at

arbitration in the coal trade were caused by the mine owners and masters. But there has been a vast improvement in the public sentiment of operators on this question within recent years. Mr. Weeks reports that in the Northumberland coal region, wages and other matters of dispute have been settled by arbitration. Since 1873, under the promotion of Judge Kettle, a systematic board has been in operation. Mining customs are the principal subjects of discussion next to wages. A very successful arbitration was accomplished in the Northumberland district in 1877. In May of that year the operatives received notice from their employers that there would be a reduction of wages, and that they would no longer be allowed a free house and free coal. The result was, twelve thousand out of fourteen thousand miners struck. They were very bitterly opposed to arbitration, and withdrew their confidence from such of their leaders as favored it. Afterwards the parties agreed to arbitrate, and the strike was broken by the award of a board of arbitration, over which a prominent member of Parliament presided as umpire. In Durham, and other parts of England, there have been arbitrations in the coal trade which have proved boons to the workmen. A careful examination of the reports on the results of the trade tribunals to try industrial

disputes in this branch of English labor, shows some queer facts.* In some quarters it seems that the intellectual capacity of the workmen is not yet high enough to abandon the brutal methods of a strike. Where they have arbitrated, it is with reluctance that they have accepted awards; in some instances they have openly repudiated them. But it can be truthfully said, however, that these cases have been rare.

In many other instances the system of arbitration and conciliation has been successfully applied. The lace trade of Nottingham is controlled by a board formed on the plan of the hosiery trade at the same place. It is a permanent court of arbitration, and has met the warmest expectations of its founders. The moving sentiment among the trade unions, as

*In South Yorkshire and North Derbyshire Mr. Mundella has arbitrated a number of disputes the present year. At Barnsly an eight months' strike was settled by Mr. Whitewell and Mr. Mundella. There have been successful arbitrations in the coal trade at Ashton, Oldham, North Staffordshire, Cleveland, North of England, and Lancashire. In South Staffordshire a sliding scale was adopted in 1874. but its working was not satisfactory, owing to a decline in coal being much greater than was expected. At Radstock there have been two awards, one by Mr. Mundella and the other by Mr. Thomas Hughes, M. P. In North Wales there have been several arbitrations. In all these cases there has seemed to be an earnest desire on the part of the leaders of the unions to hold men to the awards, telling them that they were bound in honor, and threatening to withdraw from their positions if the men were false to their word. The Welsh colliers are rough, uneducated men, however, and have forgotten honor and interest, and rejected awards that have been made; and at present arbitration is not practiced in this district.—*Weeks' Report on English Arbitration, December, 1878.*

well as the capitalists, is that the time of strikes is past. Their conclusions are being proved by the fact, that every trade union in England indorses arbitration, and that capital is submitting to trial at the tribunals where labor has an equal voice with its employer.*

Arbitration in England that has been written of herein has been purely voluntary arbitration. The systems advocated and established by Mr. Mundella and Judge Kettle are extra statutory. But within a few years acts have been passed which have been intended to further and aid voluntary arbitration. The first of these, by Lord St. Leonards, was passed in 1867. It operates only when called into being by the Justice of the Peace, and there is no permanency in the board so created. Unlike the Mackinnon Bill of 1859, it is compulsory. No cases of arbitration have been reported under the act, and it is practically obsolete. The law of 1872, by Mr. Mundella, known as "The Arbitration (Masters and Workmen) Act, 1872," is practically an effort to enforce the awards arrived at by voluntary arbitration, and makes binding on all parties the agreements entered into by them. In the "Memorandum" the uses of the act are summarized, which I quote as follows:

*See APPENDIX I.

"1. To provide the most simple machinery for a binding submission to arbitration, and for the proceedings therein.

"2. To extend facilities of arbitration to questions of wages, hours, and other conditions of labor, also to all the numerous and important matters which may otherwise have to be determined by justice under the provisions of the Master and Servant Act of 1867.

"3. To provide for submission to arbitration of future disputes by anticipation, without waiting till the time when a dispute has actually arisen, and the parties are too much excited to agree upon arbitrators."

I infer from the expressions of the press, and from the experience of those interested, that the cause of arbitration in England has been but little advanced by Parliamentary legislation. That most powerful of all statutes, the public sentiment of the working people, has given it its present firm and advanced position. The view of Professor Jevons, that arbitration should be free from the law and lawyers, seems to be the opinion of the practical adherents of voluntary arbitration. I am not certain but that they are correct. Not that the "law or lawyers" will be of any injury, but in the large majority of cases of arbitration between capital and labor, both

parties are usually execution-proof. It deals purely with the acts of men; and no law can be passed to compel men to do something they do not want to do. In voluntary arbitration the force of honor and sentiment, public and private, is the only writ that can execute an award.

The history of English voluntary arbitration is full of lessons to the American workingman. It appeals to all the self-interest as well as the manhood of the American manufacturer. The experience of the past quarter of a century has demonstrated that all the difficulties which arise between capital and labor are capable of a just and inexpensive solution. That under the influence of a sentiment which opposes strikes, and favors a fair submission to arbitration, the social, political, and financial condition of the employer is far advanced above what it was thirty years ago.

CHAPTER VI.

VOLUNTARY ARBITRATION IN THE UNITED STATES.

FIFTEEN years ago the English representative at Washington, in a report to his own government on the condition of labor in this country, wrote as follows:

"There are few countries in which the workingman is held in such repute as in the United States of America.

"The laboring classes may be said to embrace the entire American nation.

"Every man works for a living, follows a profession, or is engaged either in mercantile or industrial pursuits.

"The prosecution of the humblest calling acts as no bar to promotion in the social scale.

"The lowly citizen of to-day may aspire to Presidential honors to-morrow."*

*Reports Respecting the Condition of the Industrial Classes in Foreign Countries. Presented to both Houses of Parliament by Her Majesty's Command.—*London, 1870.*

The most intense American could not state more happily the truth concerning our people in a less number of propositions. The expression that the American nation is one of laborers is emphatically true. There is no permanent class in this country but the laboring class. All our people derive their origin from workers of muscle and brain — from those who in years gone by cleared away the forests, and planted in virgin soil the seeds of what has grown to be a tremendous testimony to human genius and skill, or from those of later growth and arrival, who have brought from other lands elements of strength that have helped to build up our nationality. It is true that wealth and capital have grown up among this great people, but they came from labor and labor's earnings. No royal road to position, wealth, or power is found in this republic, where every man is the peer of his brother. The only aristocracy that will stand is the aristocracy of intellect. The voice of labor, when it sends forth its demands in the "parliament of man," is just as powerful as the capital for which it works. When it fails to obtain the rights due it under justice and the law, the fault is not with the people. There is no country in the world where there is less excuse for the workingman laboring under unjust disadvantages than in the United

States. Here, as a part and factor of the "powers that be," he should be the last to allow himself to be deprived of his rights.

And yet we find, as in the old world, whenever there is a clash between money and muscle, the latter is generally worsted. This is not due in any manner to our laws, sentiment, or institutions, but rather to a failure of the methods adopted by organized labor in its conflicts with capital. The law which in the wager of battle makes a victor of the stronger, gives capital the advantage in a mere struggle for vantage ground where endurance and money are the only weapons used. As long as American labor has no other way by which it can enforce its claims but by strikes, just so long will it be at the complete mercy of capital. And as long as the manufacturer, mine operator, and mill owner refuse to listen to the argument of labor, thus long will they find an enemy in the workingman.

Capital must learn to live not for profit alone, but should remember that labor is its handmaid, and profit at the unjust expense of the employed is a moral as well as a social crime. Labor has much to learn also: the first is, that to struggle with capital when the choice of weapons is left to the latter, is a folly and will always be a failure. Labor, by the equity of humanity, should be

willing to accept decreased wages with decreased profits, and the employer should be equally just by paying increased wages with increased profits, provided always that the increase or decrease of profits is not the result of unhealthy competition. Just and safe as this method may appear, it never enters into the relationship of employer and employed. This consideration by the workers of labor and capital, with the advantages and depressions of trade, will have its fullest and fairest application under a system of arbitration.

The principle of appealing to the judgment, intelligence, and fair play of a tribunal, without the ceremony or technicalities of the courts, is peculiarly adapted to the American workingman. And it is strange that a greater number of peaceful settlements of trade disputes in this manner has not been made. One reason is that there is being sowed almost daily seeds of poison among the American working classes. Those professional labor agitators who preach that there is an eternal and irrepressible antipathy between capital and labor, are the worst enemies of arbitration and the workingman. In the same ranks, and with the same doctrine, is the Anarchist, the Socialist, and the Communist—he of whom Ebenezer Elliott, the Corn Law rhymer, satirically sung:

"What is a Communist? One who hath yearnings
For equal division of unequal earnings;
Idler or bungler, or both, he is willing
To fork out his penny and pocket your shilling."

Their wild Utopian schemes are seductive beside the plain business proposition of compromise. They urge strikes when there is no ground for differences beyond sentimentalism, and they find followers too. There is a romance and daring similar to war, that makes strikes partially seductive. They are "fighting capital," a shibboleth which, in the mouth of a workingman who never works, is a powerful incentive to his brother who toils and sweats for his bread, to conjure up his wrongs and "go out." The liberty of speech, of press, and of action have all been exhausted in sustaining strikes, and arbitration in its systematic character, as applied in England, has had but a limited history in the United States. In this omission the injury has been to the industrious labor, which has paid dearly for it.

The idea of making an effort for a peaceful solution of our disagreements is almost intuitive to an intelligent man. The principle of co-operation for self-protection is equally so. And every feeling of confidence in the justness of our cause would lead us to submit our disputes to

some honest tribunal, rather than to the dangerous and uncertain wager of battle or physical endurance. That principle works broader and better in this country than in England; we are emphatically a peaceful court-settling people. The first instinct of an American is to co-operate with his fellows, when all desire the same end; his next is to submit to the will of the majority or the court.

The history of industrial arbitration in the United States is very short. There has been no general effort towards the establishment of permanent and systematic boards of voluntary arbitration, but the principle shows itself in various trades and under various circumstances. For years there has existed in New York a society called the Working Woman's Protective Union. Its object is "to stand between the woman who unaided is battling in the world for a living, and those who would defraud her of what she has honestly earned; to encourage and sustain her in this desire to support herself and others who may be dependent upon her, and further to open up new fields of labor and thus relieve those departments of industry now overcrowded." It has no arbitrative functions, but I refer to it as an instance of a powerful mediator between employer and employed. It has uniformly prevented

strikes and lock-outs by referring, in the name of the working woman, to the courts for protection; and, as a result, this method of arbitration, forced and imperfect as it is, has settled within sixteen years 1,600 disputes, and $30,000 have been recovered from employers who sought to impose upon their hands, and this, too, without the cost of a cent to the women themselves. Its official statements claim that the greatest accomplishment of the Protective Union has been the simple fact of its existence. The knowledge of the working women and their employers, that there was a place of protective resort where fair play could be had, dissipated again and again the possibilities of conflict and wrong.

The first and most notable instance of permanent and systematic voluntary arbitration in the United States is that connected with the cigar manufactory of Straiton & Storm, of New York City. This establishment, employing over two thousand workmen, has since 1879 settled all its disputes with its employes through a board of arbitration. The question of wages, which is always a difficult one for boards to handle, has been successfully arbitrated by this board time and again. The tribunal which constitutes this voluntary court of capital and labor is composed

of fourteen members.* The firm is represented by two of its members and five foremen; and the workmen by three handworkmen, two rollers, one bunch maker, and one packer. Thus it is that all the various interests of the employed are represented on the board. Since January, 1879, the operation and results of the board of arbitration have been of remarkable fairness and success; and the language of the employers, in a letter to the writer, after five years of practical trial, is, "That the principle of arbitration and the results following therefrom have proven advantageous to both ourselves and our employes, far beyond anything that we had hoped from it, at its inception." Like the boards at Nottingham and the other parts of England, the court of arbitration has not only served to settle disputes, but it has brought employer and workmen together and developed in each a better humanity and a desire to do justice to each other. The history of the Straiton & Storm board of arbitration can be summed up in the single word, success; and it has, from the statements of the workmen, been a social and moral as well as a financial benefit. Its record is a standing and unanswerable argument against those who claim that arbitration in trade disputes is impracticable.

* See APPENDIX II.

It will be observed that this exists under or by virtue of no law, but is strictly voluntary — the mutual creation of the workmen and their employers. Its awards are intended to be fair and honest, and in no instance have they been repudiated.

The extensive and important industries of mining and iron manufacturing in the State of Pennsylvania have called into operation the principle of arbitration more frequently there than elsewhere in the Union. Various attempts have been made to arbitrate disputes between employers and workmen in the coal trade of that State, but owing to a lack of mutual desire for peaceful settlements on both sides they have not been successful. The same can be said of the iron trade.

Since 1878, through the efforts of Joseph D. Weeks of Pittsburgh, whose report on voluntary arbitration in England has made him the pioneer advocate of that system in this country, popular sentiment, both of capitalists and workmen, has surely drifted to a favorable consideration of arbitration. The reason of the general failure of efforts at arbitrating in Pennsylvania has been due principally to the fact that there was no system in the boards; and again they were usually selected and created during a strike, or

impending a dispute. The contestants were in no mood for a peaceful settlement of their troubles. It was like embassadors of peace coming on a battle field, and seeking to arrive at terms amid the smoke and din of conflict. Successful arbitration must have boards that are pre-existing to a strike. This difficulty has been provided for by recent legislation. The law popularly known as the "Wallace Act," on account of its author, William A. Wallace, of Clearfield, which became a law April 30, 1883, is the first piece of legislation in this country practically grasping the principle of voluntary arbitration. It provides for the creation of tribunals of arbitration in the iron, steel, glass, textile fabrics, and coal trades. The law simply gives official birth to the tribunal, and invests it with power of investigation of disputes where they are voluntarily submitted. It is unquestionably the first effort at systematic arbitration ever proposed in this country. In its operation and effects it has, where it has been fairly tested, proved of decided advantage.* Of course, the submission of all questions under this law being purely voluntary, and the awards having no legal or compulsory force, its principal value is in giving character, official bearing, and system to

*See APPENDIX III.

tribunals acting under it. Its sessions and proceedings are under the eye of the public.

In Ohio there have been various attempts at arbitration, but they have generally been during a strike, or in a fixed and passionate dispute. There has been no systematic effort made to advance the principle until very recently.

In 1874, in the Tuscarawas Valley, arbitration between the miners and operators was attempted, the full proceedings of which are recorded by the Mine Inspector in his report for 1876. The Miners' National Association, to prevent a strike, proposed a settlement by arbitration. It was willingly entered into, and the award made, which satisfied all, but was disregarded by one leading coal company, and the arbitration was a failure. In 1882, according to the Report of the Bureau of Labor Statistics, successful arbitration was accomplished in the shoe trade at Cincinnati. A voluntary board of arbitration, similar to that of Straiton & Storm, of New York, was organized by employers and employed; and it is stated that it successfully settled differences in work and wages during its existence.

On February 10, 1885, the Legislature of Ohio passed without a dissenting vote, a bill prepared and introduced by the writer, providing for the creation and operation of tribunals of voluntary

arbitration.* The law contains the successful features of voluntary arbitration as practiced in England and on the Continent. While its operations are purely voluntary, it affords a cheap, honest, and effective method for settling trade disputes without strikes or lock-outs. Its semi-official character makes it partly a public board or institution. The Ohio law, while modelled after, is essentially different from, the "Wallace Act" of Pennsylvania, in many respects. The most important difference is that the awards of the board are binding, in honor, upon the parties thereto without their subsequent ratification. They pledge themselves, in Ohio, upon the submission of the question, to abide by the award; in Pennsylvania it requires an acceptance before the award is binding. As yet there has been no practical application in Ohio of the law; but it must be said that no occasion has arisen whereby the law could be tested. Certainly, with Pennsylvania, Ohio is most in need of the application of the peace principle in labor disputes. The conflict in the Hocking Valley crippled the capital of the State, and almost beggared the labor of that region. The cost, yet unknown and uncalculated, will equal the tax duplicate of a great city.

---

*See APPENDIX IV.

Ohio has too many interests at stake to overlook the fatality of strikes. The question of how to best give labor and capital, within her border, a "fair field and no favor," is of the highest importance to the State. By the census of 1880, she had 20,699 workshops, and in them there was employed 173,609 workers; her labor thus employed were paid $62,000,000 annually, and the capital invested to employ these hands and pay such wages amounted to $189,000,000. Her coal measures include an area of nearly 11,000 acres, and the yearly production therefrom averages 6,000,000 tons. Her average annual production of iron ore is nearly 200,000 tons, and in 1880 nearly 550,000 tons of pig-iron was manufactured within her boundaries. Can it be said that Ohio is not interested in avoiding trade disputes? And is not arbitration a vital question to her industries, her capital, and her labor?

Yet, notwithstanding the immense value that a system of arbitration would be to the industrial capital of the United States, its practical application has been decidedly limited. But as years go by, and time and experience develop the futility of strikes in bringing benefit to labor, the observing non-combatants sustain the doctrine that peaceful arrangement of disputes is as desirable and reasonable among men as between nations.

There is a large, intelligent, and influential element of citizenhood in this country that, upon questions affecting the working masses, exercise a most potent and widespread influence. I refer to the trades unions of the United States. No movement, be it worthy or unworthy, can for an instant be advanced among the working people unless it has their approval. Therefore it becomes a pertinent and necessary question, to ask, What will the trades unions do upon the matter of voluntary arbitration? Will they oppose it? Do they approve it?

CHAPTER VII.

TRADES UNIONS AND ARBITRATION.

ALL men have a right to combine for the accomplishment of an end just and beneficial to those co-operating for that purpose and not against the well-being of society. I am not a member of, nor in any way connected with trades unions, but I understand and am satisfied, that their ends are legitimate, just, and necessary. There may have been in their history, and there undoubtedly has been, disorder, injustice, and crime associated with their membership, but they are to be held no more responsible for such, than political meetings and associations are for violations of law which often attend them. The evil that is in them is not from them, nor of them.

"In their essence, trades unions are voluntary associations of workmen for mutual assistance in securing generally the most favorable conditions

of labor. This is their primary and fundamental object, and includes all efforts to raise wages or resist a reduction in wages; to diminish hours of labor or resist attempts to increase the working hours; and to regulate all matters relating to methods of employment or discharge, and mode of working. They have other aims also, some of them not less important than those embraced in the foregoing definition; and the sphere of their action extends to almost every detail connected with the labor of the workman and the wellbeing of his everyday life."*

Both employer and employed have a perfect right to combine to further their interests, provided that neither interfere with the just and honest sphere of the other. The co-operation and organization of labor dates from early history, and such organizations have been recommended by the past years of experience. The trades unions have been an unquestioned benefit to workingmen in the past. At no time have their uses and influence been more necessary than at the present day. When labor and capital approach terms of peace and friendship, the more useful will be the trade union to each. Contrary to the impressions of many, there has been no more active force in society than trades unions, in

* Conflicts of Labor and Capital.—*George Howell, p. 147.*

advocating and sustaining the system of peaceful arbitration between workmen and employers. The wide spread notion that they are composed of disturbing and capital-hating demagogues is simply a popular delusion. The principles and actions of trades unions, when investigated and studied, clearly prove this.

In England they have been the warmest advocates of arbitration. It is an article of the constitution of almost every labor association in Great Britain, to advocate in every dispute a submission to peaceful adjustment: and it is this influence that has made voluntary arbitration a settled question and a practical institution in England.

The President of the Trades Unions' Congress, which represented in 1877 nearly 700,000 members at its session that year, in his address said: "The principle of appeal to facts and reasons instead of brute force is rational, and at once commends itself to the judgment of men. There is no wonder, therefore, that the principle of arbitration for settling disputes has grown very rapidly. In the hosiery trade in the midland counties, we were among the first who adopted it, and we do not regret having done so. The workmen have sometimes had adverse decisions; but on the whole it has worked better than the old

mode. It is gratifying to find that the workmen generally are the first to adopt this intelligent and enlightened system. In some disputes which have arisen in the country, notably the West Lancashire strike, the employers refused to submit to arbitration, although the men suggested it on three occasions. My own experience as a member of one of these boards has led me to this conclusion: if a board be properly constituted, and proper arrangements are made to give publicity to the facts of a case, the result generally will be a righteous award. I was glad to hear that the National Miners' Union have decided to offer arbitration in every dispute, and it forms a part of their rules. It is a rational arrangement, and it would be a good thing if all would adopt it. I think, too, arbitration boards should be open to the press and the public. Workmen have nothing to fear from either the one or the other. We want right and justice to rule, and we are not afraid of publicity. When men and employers gather round a board to talk over differences and try to adjust them, they give evidence of their manhood. Beasts and reptiles fight and tear each other, and carry out the law of the strongest, but men reason and think, and by this means show their dignity, and arrive at much better conclusions and far less costly.

Boards for settling disputes would not do away with unions; they would still be needed, and under increased necessity to enforce the decision of the board when given in favor of the workmen."

At the present time it is estimated that in England there are 800,000* members of trades unions. Their almost unanimous voice is for arbitration in industrial pursuits. And it is a fact in the history of arbitration, that the initiatory steps towards this peaceful method was inaugurated by the trades unions.

In the United States the same sentiment prevails among trades unions in relation to arbitration. The number of members is much greater in this country than in England, but no authoritative estimate can be given. However, every labor organization in the United States, with the remarkable exception of one, openly advocates and recommends arbitration in preference to strikes or lock-outs. The exceptional case is the Amalgamated Association of Iron and Steel Workers, an organization of wide spread influence and large membership. Their objection, though, is not to the principle of arbitration, but rather to its practical application. The Knights

*Trades Unions; Their Origin and Objects, Influence and Efficacy.—*Wm. Trant, London, 1884.*

of Labor, the most powerful and numerous labor organization in this country, has for one of its cardinal principles the expression of confidence in just arbitration, and always recommends its application in place of a strike. So it can be safely said that in the trades unions of the United States tribunals of arbitration will find a friend and supporter.

The trades unions are a powerful assistant to honest and thorough arbitration, as well as to a just examination of the dispute. Their systematic method of collecting and preserving the statistics of labor makes the information within their knowledge very important. They are the natural channels to direct the arguments and force of the figures of wages before a tribunal of arbitration. Again, they are invaluable as one of the influential factors in preventing the repudiation of an award. The experience of the past has shown that there has been less repudiation of awards by workingmen than by employers and capitalists. This is largely due to the obligations of honor promulgated and sustained by the discipline of the trades unions. Judge Rupert Kettle, whose experience in arbitration has been referred to, says that he has found in the trades unions a most valuable adjunct to popular sentiment in confirming and accepting

an award. The same can be said of the trades unions in this country.

I have dwelt at length upon the relations of trades unions to arbitration because there is a wide spread and delusive idea prevalent among many that they are opposed to it, and their principal object is to foment strife and encourage strikes. Such is not so. And if capital will join hands with organized labor, the day of strikes and battles between employer and employed is gone forever before the peaceful and sensible reign of arbitration. And in doing this the man of money will lose none of the legitimate control of the results of his genius and thrift; and the man of labor will elevate himself into the domain of a broader and better humanity.

APPENDIX.

APPENDIX I.

ARBITRATION IN THE ENGLISH TRADES.

The following report on English arbitration was made by Alsager H. Hill, L. L. B., of London, to the Massachusetts Bureau of Labor Statistics, in 1877. It is of interest as showing the condition of the various trades at that time with reference to the principle of arbitration and conciliation.

According to the record of Mr. Crompton, the English working classes have given the most favorable reception to the proposal for courts and boards of arbitration and conciliation. As far back as 1866, Mr. George Odger introduced the subject of arbitration at a large meeting in Sheffield, and then expressed the opinion that strikes were to the social world what wars were to the political world — they became crimes unless they were prompted by absolute necessity. Where industries are not localized, but, on the contrary, scattered over the country, arbitration arrangements necessarily become more difficult. In the more highly organized of these trades, the question of wages is not so often raised by arbitration, and in some, very slight alterations have taken place in a long series of years.

The engineers have, as in the case of the nine hours' strike at Newcastle, in 1871, so ably recorded by Mr. John Burnett, the Secretary of the Amalgamated Engineers, been willing to submit questions in dispute to arbitration; but the great variety of operatives employed in this industry makes the system more difficult to adjust satisfactorily. Mr. John Burnett has, however, expressed his opinion that "a scheme of arbitration might be arranged so as to apply to the various peculiarities of the engineering trade."

The brassworkers have made an experiment in arbitration, but it does not seem to have been successful.

At Sheffield the employers did not seem disposed to meet the overtures of the men, who, through the carpenters, desired to form a board.

The bricklayers cannot be reported as having distinctly pledged themselves to the system of arbitration; but Mr. Coulson, the Secretary of the Operative Bricklayers' Society, has endeavored to establish boards as opportunities have arisen.

The masons have not as a class shown so strong a desire for arbitration as the other classes of building operatives; and, in the language of Mr. Crompton, "they have a conservative tenacity which tends to prevent them from changing some practices which cannot stand the test of criticism." At Bristol, however, a code of rules has been drawn up between the Master's Association and that of the Operative Stone Masons. One rule provides that "six employers and six operatives act as a standing committee to hear and determine any minor disputes that may arise from time to time as to the intention and working of the rules, and their decision shall be equally binding on both parties, and no suspensions of labor shall take place pending the decision of the conciliation committee."

Among painters, though there is no permanent board in the trade, a code of working rules was established at Manchester in 1870, agreed upon by six operatives and six employers. According to this code, there must be six months' notice of any change, which is settled by conciliation if possible; if not, by reference to some arbitrator. At Birmingham, Coventry, Leicester, and Nottingham, arbitration has also taken place in this branch of trade.

In the potteries a board of conciliation and arbitration has been in existence since 1868 for the china and earthen ware manufactories. The board is established on the model of the Nottingham boards. "The President presides over such meetings of the board as are not convened for the purpose of arbitration; but a standing referee presides over all arbitrations by the board, and his decision is final in the event of an equal vote." Mr. Crompton points out that the advantage of this seems to be, that the referee is not called, or arbitration attempted, until the board has failed to settle by conciliation; in which case there is to be one final arbitration arrived at, if possible, without difference. The award is made subject to a month's notice on either side. The settlement of the prices of labor is, however, for a year.

In the chemical trade of Northumberland and Durham, a board of arbitration and conciliation was established in 1875; but it is of too recent formation for any results to be reported. This board has a by-law especially directed against strikes and lock-outs.

In the boot and shoe trade, no board of a formal character has yet been established; but a resolution has been passed at Stafford in support of one in the future. At Leicester, also, steps have been taken recently to form a similar board.

In the woollen and worsted trades of Yorkshire, there have been no boards of arbitration or conciliation, nor has arbitration been resorted to as a means of settling disputes.

In the East Lancashire cotton trade, there is no system of arbitration or conciliation; but committees composed of employers and employed are appointed from time to time for the purpose of settling disputes, and they argue the question till one side gives in. Mr. Birtwhistle, the Secretary of the East Lancashire Amalgamated Weavers' Association, is of the opinion they ultimately will have to resort to arbitration.

In the printing trade, a court of arbitration was established in 1853; but the court broke up because the men, while accepting the award as a decision in an actual dispute, refused to accept it as a decision binding in all other cases arising out of past contracts, and involving similar questions.

In the Typographical Trades Union, arbitration has been suggested, but not yet adopted.

At Manchester, a question in dispute has been settled, however, in conference between the masters and men in the printing trade.

Among unskilled laborers, with the exception of the laborers who are represented on the Birmingham board in building trade, no settled form of arbitration has yet been arranged; and, until this large class is more thoroughly organized within its own lines by union, such arbitration will be difficult, if not indeed impossible.

Among agricultural laborers, into whose ranks the spirit of organization is fast infusing itself, no arbitration has yet taken place; but Mr. Howard Evans, editor of *The English Laborer*, Mr. Crompton, and others, have written in favor of the adoption of the system in future disputes.

APPENDIX II.

SPECIMEN OF AN AMERICAN ARBITRATION BOARD.

I give below the Constitution and By-Laws of the Straiton & Storm Board of Arbitration. It is the first systematic application of the principle in this country.

ARTICLE I.

SECTION 1. The firm of Straiton & Storm and their workmen herewith agree to organize a Board of Arbitration, to whom shall be submitted all questions of wages and such other matters as may be in dispute between employer and employe.

ARTICLE II.

SEC. 1. The workmen of the firm of Straiton & Storm shall elect at a regular annual meeting *Forty delegates*, as hereinafter set forth.

SEC. 2. The *Hand-workmen* shall elect fifteen delegates, as follows: Four from the second floor; Seven from the third floor; Four from the factory on Thirty-third street.

SEC. 3. The *Rollers* shall elect eleven delegates, as follows: Four from the fourth floor; Four from the fifth floor; Three from the factory on Thirty-third street.

SEC. 4. The *Bunch-makers* shall elect seven delegates, as follows: Three from the fourth floor; Three from the fifth floor; One from the factory on Thirty-third street.

SEC. 5. The *Packers* shall elect seven delegates, as follows: Four from the sixth floor; One from the first floor; Two from the factory on Thirty-third street.

SEC. 6. *Bunch-makers*, to be eligible as delegates, must be twenty-one years of age.

SEC. 7. The *annual election* of delegates shall take place on the last Monday in June. Nominations are to be made one week before election.

SEC. 8. Should the number of delegates at any time be less than ten, they shall elect by ballot and for the unexpired term the whole number of delegates, as provided for in Section 1, Article II.

SEC. 9. Only such employes, who have been in the employ of the firm six months previous to each election, shall be eligible as delegates.

SEC. 10. Only such employes, who have been in the employ of the firm four weeks previous to the annual election, shall have the right to vote for delegates.

ARTICLE III.

SEC. 1. One week after the annual election, the delegates thereat, chosen by the different branches of employes, shall meet separately, organize, and elect from their respective delegates their representatives in the Board of Arbitration.

SEC. 2. The Board of Arbitration shall consist of fourteen members, as follows:

Three Hand-workmen	3
Two Rollers	2
One Bunch-maker	1
One Packer	1
Two Members of the Firm	2
Five Foremen	5
	14

SEC. 3. Immediately after the election of the representatives of the workmen to the Board of Arbitration, the same shall meet and organize by the election, through ballot, of a President and Secretary.

SEC. 4. At all the meetings of the Board of Arbitration, the firm of Straiton & Storm and its representatives shall constitute part of the said Board, as specified and set forth in Section 2, Article III.

SEC. 5. Should vacancies occur in the Board of Arbitration, the delegates of the respective branches immediately shall proceed to fill such vacancies as specified and set forth in Section 1, Article III.

ARTICLE IV.

SEC. 1. The Board of Arbitration shall hear such evidence as may appear to be necessary to a proper understanding of the questions before the Board.

SEC. 2. All questions shall be decided by an open vote. At any final vote, the names of the members of the Board shall be called in alphabetical order, and the vote is to be given in "Aye" or "Nay."

SEC. 3. The decisions of a majority of the Board of Arbitration shall be binding on all the parties concerned.

SEC. 4. All decisions affecting the interests of either employers or employes must be had in the presence of a full Board.

SEC. 5. Whenever, at any meeting, a final vote is to be taken on any main question, all the delegates of the different branches shall be present at such meeting.

SEC. 6. If a member of the Board is absent at any meeting whereat a final vote on any main question is to be taken, the place of the absent member shall immediately be filled by the respective delegation.

SEC. 7. Whenever any question, on which a final vote is to be taken, is properly before the board, meetings shall be held daily until the said matter has been decided upon.

ARTICLE V.

SEC. 1. At a tie vote on any main question, and after five ballots, each member of the Board, with the exception of the President, shall name one person, who there and then shall join the Board for the purpose of electing an arbitrator.

SEC. 2. The workmen shall confine the selection of said persons to the delegates of their respective branches.

SEC. 3. The firm shall confine the selection of said persons to persons connected with the firm, either as employers or employes.

SEC. 4. The arbitrator shall be selected by a majority of the whole twenty-seven votes cast.

SEC. 5. Pending the election of the arbitrator, motions for recess or adjournment are not in order.

SEC. 6. After the election of the arbitrator, the functions of the thirteen persons chosen as temporary members of the Board, as specified and set forth in the

first, second, and third Sections, Article V., shall cease with the final transactions of the businsss then before the Board.

ARTICLE VI.

SEC. 1. If the firm of Straiton & Storm, at any time, should arrive at the conclusion that the Board of Arbitration no longer answers its purposes — namely, the fair and *equitable* adjustment of all differences between their employes and themselves — then the firm shall give written notice to the President and Secretary of the said Board of Arbitration, as it is then constituted, of their unwillingness to be bound by the decisions of the said Board. *Three* months after such notification the functions of the Board of Arbitration shall cease to be binding on either party, and the said Board shall be abolished.

SEC. 2. If the employes of Straiton & Storm, who are governed by the decisions of the Board of Arbitration, at any time, should arrive at the conclusion that the said Board no longer answers its purposes as specified in Section 1, Article VI., and a petition be presented to the firm with the signatures of one-third of such employes thereto attached, demanding the abolition of the said Board of Arbitration, then the employes governed by said Board shall vote upon the question; if it should appear that two-thirds of their number favor the abolition of the said Board of Arbitration, it shall, at the expiration of three months, cease to exist, and all things pertaining thereto shall be null and void.

BY-LAWS

ARTICLE I.

SECTION 1. It shall be the duty of the President to preside at all meetings, preserve order, and decide all points of parliamentary law.

SEC. 2. Whenever requested by a majority of the men interested, the Secretary shall notify each member of the Board of Arbitration of the time and place of a meeting of said Board to be held within *three* days of the date of such request.

SEC. 3. The meetings shall be called to order within fifteen minutes of the appointed time.

SEC. 4. *Seven* members shall constitute a quorum for the transaction of all business, except the casting of a final vote on any main question.

ARTICLE II.

SEC. 1. *One* of every *fifty* employes shall have the privilege to appear before the Board of Arbitration to represent their case, but such representation shall never be less than three.

SEC. 2. Such representatives may present their views in writing or otherwise.

SEC. 3. If verbal, they shall confine their remarks to the subject then before the Board, and they shall not occupy more than fifteen minutes.

SEC. 4. In no case shall these representatives enter into any other discussion than a plain statement of their case. The representatives shall be bound to answer all such questions as the members of the Board may lay before them.

SEC. 5. Such representatives shall not be members of the Board of Arbitration or of the delegations constituting the same.

Approved at a meeting of the Board of Arbitration.

MAY 31, 1884.

APPENDIX III.

A BUNDLE OF LETTERS ON THE SUBJECT.

The following letters contain expressions on arbitration in trade disputes, and were addressed to the writer in the winter of 1884. Some of them are from leading officers in prominent labor organizations, and others are expressive of the experience and observation of that system.

A. Strasser, President of the Cigar Makers' International Union of America, writes from New York City as follows:

* * * * * * *

1. The intelligent members of our organization favor arbitration without an exception, because it is a means of preventing hasty and impulsive strikes.

2. Arbitration is always preferable to a strike or lock-out; but it depends on the consent of both parties. In Cincinnati, where our members are locked out, since March 8, 1884, the manufacturers have refused to arbitrate, even declined to come to a conference.

3. We have no regular system of arbitration in force, but the majority of the unions practice the same on all occasions.

4. The best method of paving the way for arbitration is the legislation of trades unions by State and nation, which will strengthen the labor organizations.

* * * * * * *

Yours very respectfully,

A. STRASSER, *President.*

The Grand International Brotherhood of Locomotive Engineers, through one of its chief officers, replied:

* * * Your letter asking for my opinion concerning the settling of disputes between capital and labor by arbitration is received, and in reply will say that I regard it as the best and most just method of adjusting all differences that arise between employers and employes. As to our organization, we favor it, and are ready at all times to submit our differences, that we cannot settle, to a board of arbitration; and I believe the intelligent workmen of the country are a unit in favor of arbitration in preference to strikes. Yours truly,

P. M. ARTHUR, *G. C. E.*

Robert Howard, Secretary of the Spinners' Union of Fall River, Mass., and one of the Legislative Committee of the Federation of Organized Trades and Labor Unions of the United States and Canada, writes:

* * * I am entirely opposed to compulsory arbitration by our courts. I think such a course would act detrimentally to the interest of labor. The courts are too corrupt, and would invariably decide in favor of capital. I find it so in this vicinity. * * * Arbitration I approve of when voluntary between employers and employes. I firmly believe that if such boards were formed for the purpose of conciliation and arbitration in the event of disputes, 90 per cent. of them would be settled by conciliation, rendering arbitration unnecessary.

I am very much in favor of voluntary boards of arbitration. Respectfully,

ROBERT HOWARD,
Sec. Spinners' Union.

The practical operations of the "Wallace Act" of Pennsylvania is given in the two following letters. One is from an operator and capitalist who served on the Coal Trade Tribunal of Arbitration in the Fifth District of Pennsylvania; the other is from John Flannery, a representative of a labor organization, and also a member of the same tribunal.

William A. McIntosh, the operator member, writes:

* * * * * * *

The Coal Trade Tribunal of the Fifth Judicial District of Pennsylvania was licensed under the Wallace Act, on the 19th of May, 1883, and consisted of five representatives of miners, five representatives of operators, and an umpire

previously chosen by the other members of the Tribunal, and being, as required by the act, their unanimous choice.

The creation of this Tribunal was during a strike, the operators offering three cents per bushel for mining, and the miners demanding three and a half cents.

After several lengthy discussions it became apparent that an agreement could not be arrived at without considerable delay; and, as an earnest of good intentions, it was ordered that the miners resume work immediately, at a price to be thereafter fixed by the Tribunal, the price to date back to the time of the resumption of work.

Work was generally resumed without delay. Committees, consisting of an equal number of each side, were appointed to gather such statistics as might have a bearing on the question of prices of mining. These committees reported at a meeting held June 11, the reports being epitomes of information obtained by the committees, and showing average cost of production and selling price of coal during the three years immediately preceding.

Several meetings of the Tribunal were held; but, failing to agree upon a price to be paid for mining, it was decided that the umpire be called in. The question in dispute was submitted to him; and, after hearing the arguments of both sides, he made his award; viz., that the price to be paid for mining should be three and a quarter cents per bushel.

This award, while apparently a disappointment to both sides, was accepted and concurred in during the time it was intended to cover; viz., until October 1, 1883.

In September following, this Tribunal met for the purpose of fixing upon the price to be paid for mining from October 1, 1883, to April 1, 1884, the operators offering three

and a quarter cents and the miners demanding three and three-quarter cents per bushel.

Being unable to agree, the services of the umpire were requested. After hearing the arguments on both sides, the umpire made his award; viz., that the price of mining should be three and a half cents per bushel. This award did not appear to be satisfactory to all, but was accepted.

In March of 1884, several meetings of the Tribunal were held to fix upon the price to be paid for mining from April 1, 1884, till October 1, 1884, resulting in the adoption of the rate of three cents per bushel, without the aid of the umpire. To many miners this action was unsatisfactory, although the price was generally accepted; and when the new Tribunal was created, not one of the miners' representatives on the first Tribunal was selected to serve on the second.

This ended the work of the first Tribunal; and, while there were many hard word tilts between miner and operator, I believe all were actuated with a sincere desire to do equal justice, and that which would result in the mutual good of all concerned. While the awards of the Tribunal were not entirely satisfactory to both sides, as indeed it is hardly to be expected that they always will be, I believe the interests of both miners and operators were promoted, as strikes and lock-outs were avoided, and this is, frequently, of more importance than the matter of a small difference in price of mining.

In consequence of unavoidable delays, the present Tribunal was not licensed until October 4, 1884, four of the operators' representatives on the first Tribunal being chosen on the second, but none of the former representatives of the miners.

The present Tribunal has decided that the price of mining in effect prior to October 1, 1884, shall continue indefinitely, and that the Tribunal shall meet for the purpose of considering the question of price of mining whenever three or more members signify that to be their wish.

Having been connected with all efforts here to settle differences between employers and employes in the coal trade, by arbitration, I would call your attention to one very valuable provision of the Wallace Act, one which I regard as essential to success; viz., the provision that the umpire shall be chosen before any other steps are taken, except the choosing of the members of the tribunal proper.

In all previous attempts at arbitration in the coal trade, the plan has been to choose the representatives of the two sides, who, if they could not agree regarding the point at issue, were to choose the umpire to decide.

The result in every case has been that the arbitrators failed to agree, and such a spirit of distrust was engendered that they would not agree upon an umpire; hence failure.

In order to insure success it is also necessary that all arbitrators should be fully empowered to do what they may deem best for all concerned without the fear of the displeasure of those they represent, in case the conclusions arrived at should not be in full harmony with the ideas of their constituents.

I have an abiding faith that arbitration will grow to be the popular method of settling disputes between capital and labor; and that while each unsuccessful attempt may render the next attempt more difficult, it will also serve to bring to light the obstacles in the way, which being discerned will be the more readily overcome.

Yours truly,

WM. A. McINTOSH.

John Flannery, Secretary of the Miners' Union, under date of December 22, 1884, says:

* * * * * * *

In reply to yours of the 18th inst., on arbitration, its work, etc., I can say that it has operated here in accordance with the act of 1883 known as the "Voluntary Trade Tribunal Act," and has done more good during the last twenty months for the railroad miners and operators than it gets credit for doing. There has been no strikes, where there used to be every summer, lasting from two to five months. There has been no "exiles" made by being "victimized" for taking active parts in strikes to keep wages up. The trade, though dull this year, has suffered none through uncertainty, and contracts have been kept that properly belong to this district.

If justice were done to arbitration, which only can be where there is strong and systematic organization on both sides, it would soon become a subject for national legislation. I would favor a system that would make awards be enforced, instead of voluntary, but I have the name of an extremist in my advocacy of that system.

The one great drawback is that any one-horse employer may break the price awarded, and peaceable and fair employers must follow suit, or suffer to be underbid in the market and lose contracts, to the gain of the adventurer and foe of peace and honesty in labor matters.

Too much cannot be said favorable to this grand system when put into proper shape. If one could spare time to give you the figures to show the thousands sacrificed by capital to subjugate labor, and the fabulous amount lost by

labor to outfight capital, not to speak of the suffering of innocent souls by hunger and cold, it would surprise you, just for this district alone. Then, what is gained? There is no principle established to benefit trade or humanity; and the justice of the result established by a strike is always questionable, because it is might against right, with merit and justness left out of the controversy.

The great object is to enforce the awards, which cannot be done without a strong and well disciplined organization among workmen, and the same of employers, who go in to do right and to sit down summarily on wrong doing. An efficient agency established by national or State law, is the great requisite of the day to aid in this work, to raise humanity out of the slough of strikes. * * * * *

Yours truly,

JOHN FLANNERY.

APPENDIX IV.

THE OHIO ARBITRATION ACT.

The Constitution of Ohio confers power upon the Legislature to establish courts of arbitration and conciliation, but they must be voluntary tribunals. Section 19, Article IV., says:

> The General Assembly may establish courts of conciliation, and prescribe their powers and duties; but such courts shall not render final judgment in any case, except upon submission, by the parties, of the matter in dispute, and their agreement to abide such judgment.

The following is now the law in Ohio on this subject:

AN ACT

To authorize the creation and to provide for the operation of tribunals of voluntary arbitration to adjust industrial disputes between employers and employed.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Court of Common Pleas of each county or a Judge thereof in vacation, shall have the power, and upon the presentation of the petition, or of the agree-

ment hereinafter named, it shall be the duty of said court, or a Judge thereof in vacation, to issue in the form hereinafter named, a license or authority for the establishment within and for each county of tribunals for voluntary arbitration and settlement of trade disputes between employers and employed in the manufacturing, mechanical, or mining industries.

SEC. 2. The said petition or agreement shall be substantially in the form hereinafter given, and the petition shall be signed by at least forty persons employed as workmen and by four or more separate firms, individuals, or corporations within the county, or by at least four employers, each of whom shall employ at least ten workmen, or by the representative of a firm, corporation, or individual employing not less than forty men in their trade or industry, provided, that at the time the petition is presented, the Judge before whom said petition is presented, may, upon motion, require testimony to be taken as to the representative character of said petitioners, and if it appears that the said petitioners do not represent the will of a majority, or at least one-half of each party to the dispute, the license for the establishment of the said tribunal may be denied, or may make such other order in this behalf, as to him shall seem fair to both sides.

SEC. 3. If the said petition shall be signed by the requisite number of both employers and workmen, and be in proper form and contain the names of the persons to compose the tribunal, being an equal number of employers and workmen, the Judge shall forthwith cause to be issued a license substantially in the form hereinafter given, authorizing the existence of such tribunal and fixing the time and place of the first meeting thereof, and an entry of the license so granted shall be made upon the journal of the

Court of Common Pleas of the county in which the petition originated.

SEC. 4. Said tribunal shall continue in existence for one year from the date of the license creating it, and may take jurisdiction of any dispute between employers and workmen in any mechanical, manufacturing, or mining industry or business, who shall have petitioned for the tribunal, or have been represented in the petition therefor, or may submit their disputes in writing to such tribunal for decision. Vacancies occurring in the membership of the tribunal shall be filled by the Judge or court that licensed said tribunal, from three names presented by the members of the tribunal remaining of that class in which the vacancies occur. The removal of any member to an adjoining county, shall not cause a vacancy in either the tribunal or the post of umpire. Disputes occurring in one county may be referred to a tribunal already existing in an adjoining county. The place of umpire in any of said tribunals and vacancies occurring in such place, shall only be filled by the mutual choice of the whole of the representatives, of both employers and workmen constituting the tribunal, immediately upon the organization of the same. The umpire shall be called upon to act after disagreement is manifested in the tribunal by failure during three meetings held and full discussion had. His award shall be final and conclusive upon such matters only as are submitted to him in writing and signed by the whole of the members of the tribunal, or by parties submitting the same.

SEC. 5. The said tribunal shall consist of not less than two employers or their representatives, and two workmen. The exact number, which shall in each case constitute the tribunal, shall be inserted in the petition or agreement, and

they shall be named in the license issued. The said tribunal, when convened, shall be organized by the selection of one of their number as chairman and one as secretary, who shall be chosen by a majority of the members, or if such majority cannot be had after two votes, then by secret ballot, or by lot, as they prefer.

SEC. 6. The members of the tribunal shall receive no compensation for their services from the city or county, but the expenses of the tribunal, other than fuel, light, and the use of the room and furniture, may be paid by voluntary subscription, which the tribunal is authorized to receive and expend for such purposes. The sessions of said tribunal shall be held at the county seat of the county where the petition for the same was presented, and a room in the Court House for the use of said tribunal, shall be provided by the County Commissioners.

SEC. 7. When no umpire is acting, the Chairman of the tribunal shall have power to administer oaths to all witnesses who may be produced, and a majority of said tribunal may provide for the examination and investigation of books, documents, and accounts pertaining to the matters in hearing before the tribunal, and belonging to either party to the dispute; provided, that the tribunal may unanimously direct that instead of producing books, papers, and accounts before the tribunal, an accountant agreed upon by the entire tribunal, may be appointed to examine such books, papers, and accounts, and such accountant shall be sworn to well and truly examine such books, documents, and accounts as may be presented to him, and to report the results of such examination in writing to said tribunal. Before such examination the information desired and required by the tribunal shall be plainly stated in writing and presented to said accountant,

which statement shall be signed by the members of said tribunal, or by a majority of each class thereof. Attorneys at law or other agents of either party to the dispute, shall not be permitted to appear or take part in any of the proceedings of the tribunal, or before the umpire.

SEC. 8. When the umpire is acting he shall preside, and he shall have all the powers of the Chairman of the tribunal; and his determination upon all questions of evidence, or other questions, in conducting the inquiries then pending, shall be final. Committees of the tribunal consisting of an equal number of each class may be constituted to examine into any question in dispute between employers and workmen which may have been referred to said committee by the tribunal, and such committee may hear and settle the same finally, when it can be done, by a unanimous vote; otherwise the same shall be reported to the full tribunal, and there be heard, as if the question had not been referred. The said tribunal, in connection with the umpire, shall have power to make, ordain, and enforce rules for the government of the body when in session, to enable the business to be proceeded with in order, and to fix its sessions and adjournments; but such rules shall not conflict with this statute, nor with any of the provisions of the Constitution and laws of Ohio.

SEC. 9. Before the umpire shall proceed to act, the question or questions in dispute shall be plainly defined in writing, and signed by the members of the tribunal, or a majority thereof of each class, or by the parties submitting the same; and such writing shall contain the submission of the decision thereof to the umpire by name, and shall provide that his decision thereon, after hearing, shall be final. The umpire shall be sworn to impartially decide all questions that may be submitted to him during his term

of office. The submission and his award may be made in the form hereinafter given, and said umpire must make his award within ten days from the time the question or questions in dispute are submitted to him. Said award shall be made to the tribunal; and if the award is for a specific sum of money, said award may be made a matter of record by filing a copy thereof in the Court of Common Pleas of the county wherein the tribunal is in session. When so entered of record it shall be final and conclusive, and the proper court may, on motion of any one interested, enter judgment thereon; and when the award is for a specific sum of money, may issue final and other process to enforce the same.

SEC. 10. The form of the joint petition or agreement praying for a tribunal under this act shall be as follows:

To the Court of Common Pleas of ... ... County (or to a Judge thereof, as the case may be):

The subscribers hereto, being the number and having the qualifications required in this proceeding, being desirous of establishing a tribunal of voluntary arbitration for the settlement of disputes in the .... (*here name the branch of industry*) trade, and having agreed upon A, B, C, D and E, representing the employers, and G, H, I, J and K, representing the workmen, as members of said tribunal, who each are qualified to act thereon, pray that a license for a tribunal in the .... trade may be issued to said persons named above.

EMPLOYERS.	NAMES.	RESIDENCE.	WORKS.	NUMBER EMYLOYES.

EMPLOYES.	NAMES.	RESIDENCE.	BY WHOM EMPLOYED.

SEC. 11. The license to be issued upon such petition, may be as follows:

STATE OF OHIO, } ss.
.....COUNTY, }

WHEREAS, The joint petition and agreement of four employers (*or representatives of a firm, corporation, or individual, employing forty men, as the case may be*), and forty workmen has been presented to this court, (*or if to a judge in vacation, so state*), praying the creation of a tribunal of voluntary arbitration for the settlement of disputes in the.....trade within this county, and naming A, B, C, D, and E, representing the employers, and G, H, I, J, and K, representing the workmen. Now, in pursuance of the statute for such case made and provided, said named persons are hereby licensed and authorized to be and exist as a tribunal of voluntary arbitration for the settlement of disputes between employers and workmen for the period of one year from this date, and they shall meet and organize on the....day of....., A. D.....at.....

Signed, this.... day of....., A. D.....

[*Signature.*].....,

Clerk of the Court of Common Pleas of ...County.

SEC. 12. When the tribunal agrees to submit a matter in controversy to the umpire, it may be in form as follows:

We, A, B, C, D, and E, representing employers, and G, H, I, J, and K, representing workmen, composing a tribunal

of voluntary arbitration, hereby submit and refer unto the umpirage of L. (*the umpire of the tribunal of the.....trade,*) the following subject-matter, namely: [*Here state fully and clearly the matter submitted.*] And we hereby agree that his decision and determination upon the same shall be binding upon us, and final and conclusive upon the question thus submitted; and we pledge ourselves to abide by and carry out the decision of the umpire when made.

Witness our names this....day of....., A. D.....

[*Signatures.*]

SEC. 13. The umpire shall make his award in writing to the tribunal, stating distinctly his decisions on the subject-matter submitted. And when the award is for a specific sum of money, the umpire shall forward a copy of the same to the clerk of the proper court.

SEC. 14. This act shall be in force from and after its passage.